

MONTANA LEGISLATIVE HISTORY

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Chapter 725 19 91

Bill H _____ S 232 Original bill & history C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s) Mar 12 ✓ C

Hearing Date(s) Feb 13 ✓ C

Mar 13 ✓ C

Feb 21 ✓ C

_____ C

_____ C

_____ C

_____ C

Date Out Mar 14 ✓ C

Feb 22 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Appropriations

Apr 04

RETURNED TO SENATE
 3/23 SIGNED BY PRESIDENT
 3/25 SIGNED BY SPEAKER
 3/25 TRANSMITTED TO GOVERNOR
 3/29 SIGNED BY GOVERNOR
 CHAPTER NUMBER 275

EFFECTIVE DATE: 3/29/91

SB 232 INTRODUCED BY DOHERTY, ET AL.

CREATE JUSTICE DEPARTMENT SALVAGE AND MOTOR VEHICLE
 INSPECTION/IDENTIFYING PROGRAM
 BY REQUEST OF DEPARTMENT OF JUSTICE

1/30	INTRODUCED		
1/30	REFERRED TO BUSINESS & INDUSTRY		
1/30	FIRST READING		
1/30	FISCAL NOTE REQUESTED		
2/05	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/13	HEARING		
2/22	COMMITTEE REPORT—BILL NOT PASSED AS AMENDED		
2/22	ADVERSE COMMITTEE REPORT ADOPTED	45	4
2/23	RECONSIDERED ADOPTION OF ADVERSE		
	COMMITTEE REPORT 39 11		
2/25	2ND READING PASSED AS AMENDED	34	15
2/26	3RD READING PASSED	34	15
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/08	REVISED FISCAL NOTE REQUESTED		
3/12	HEARING		
3/13	REVISED FISCAL NOTE RECEIVED		
3/14	REVISED FISCAL NOTE PRINTED		
3/14	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	79	9
3/18	REFERRED TO APPROPRIATIONS		
4/04	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/10	2ND READING INDEFINITELY POSTPONED	55	44
4/12	MOTION CARRIED TO PLACE BACK ON 2ND READING		
4/13	2ND READING CONCURRED AS AMENDED	60	32
4/15	3RD READING CONCURRED	64	33
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	48	1
4/18	3RD READING AMENDMENTS CONCURRED	45	4
4/25	SIGNED BY PRESIDENT		
4/25	SIGNED BY SPEAKER		
4/25	TRANSMITTED TO GOVERNOR		
5/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 725		

EFFECTIVE DATE: 10/01/91 - SECTIONS 1, 3-8
 EFFECTIVE DATE: 01/01/92 - SECTION 2

SB 233 INTRODUCED BY HALLIGAN

ESTABLISH PILOT PROJECT FOR REIMBURSEMENT OF
 MEDICAID DENTAL SERVICES

1/30	INTRODUCED
1/31	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
1/31	FIRST READING
1/31	FISCAL NOTE REQUESTED
2/06	FISCAL NOTE RECEIVED
2/07	FISCAL NOTE PRINTED
2/08	HEARING
2/08	TABLED IN COMMITTEE

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0232, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill requires surrender to the Department of Justice of the certificate of ownership of a vehicle determined to be a salvage vehicle; allows the Department of Justice to issue a salvage certificate for a salvage vehicle capable of being rebuilt; provides for the retitling of a rebuilt salvage vehicle; creates a vehicle identification number inspection program; imposes a vehicle identification number inspection fee; requires the issuance of a salvage certificate for all junk vehicles; authorizes the Department of Justice to inspect the records of licensed motor vehicle wrecking facilities and to report violations to the Department of Health and Environmental Sciences.

ASSUMPTIONS:Department of Justice

1. 68,500 "out-of-state" and 3,500 "rebuilt" vehicles will require vehicle inspection number (VIN) inspections each year. The respective inspection fees will be \$15 for "out-of-state" vehicles, and \$75 for "rebuilt" vehicles.
2. 6,000 vehicles will require a Salvage Certificate each year with a fee of \$5 per certificate.
3. The VIN inspection program will be operational January 1, 1992. New inspection fee revenue is based upon six months of operation during FY92 and twelve months during FY93.
4. 40.00 FTE will be added in the Driver Services Bureau, Motor Vehicle Division, Department of Justice. The additional FTE include 30.00 Grade 12 Driver Examiners/Inspectors. The FTE will be phased-in during FY92 and will be fully staffed during FY93. Employee benefits are calculated at a rate of 22%.
5. VIN inspection services would be offered in all county seats where the number of vehicles registered and drivers licensed warrant the service. Part-time examiner/inspectors would be utilized on a five day per week basis in smaller counties wherever possible to optimize services and reduce travel costs. All counties with five day per week service would be automated in both the registrar's and driver services systems.
6. Current law is represented by the executive budget recommendation for the Driver Services Bureau of the Department of Justice.

Department of Health and Environmental Sciences

7. Inspections by the Department of Justice will result in the denial and/or revocation of 30 additional motor vehicle wrecking facility application/licenses each year. The license fee revenue loss for 30 facilities at \$50 each would be \$1,500 per year.
8. The increased workload associated with denials/revocations will require an additional 0.50 FTE Grade 14 technical staff for the 1993 biennium in the Motor Vehicle Recycling and Disposal Program in the Department of Health and Environmental Sciences. This position may not be necessary beyond that if compliance increases.
9. Current law is represented by the executive budget recommendation for the Motor Vehicle Recycling and Disposal Program in the Department of Health and Environmental Sciences.

FISCAL IMPACT:

see next page

 2-5-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2/7/91
STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0232, as introduced

SB 232

FISCAL IMPACT:

Department of Justice-Driver Services Bureau

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	86.05	109.55	23.50	86.05	126.05	40.00
Personal Services	2,002,000	2,571,600	569,600	2,000,300	3,007,200	1,006,900
Operating Costs	656,200	857,900	201,700	651,300	988,800	337,500
Equipment	56,500	134,300	77,800	56,300	111,300	55,000
Total	2,714,700	3,563,800	849,100	2,707,900	4,107,300	1,399,400
<u>Funding:</u>						
General Fund (01)	2,536,700	3,385,800	849,100	2,569,900	3,969,300	1,399,400
State Special (02)	128,000	128,000	0	88,000	88,000	0
Federal Special (03)	50,000	50,000	0	50,000	50,000	0
Total	2,714,700	3,563,800	849,100	2,707,900	4,107,300	1,399,400
<u>Revenues:</u>						
VIN Inspection Fees (01)	0	645,000	645,000	0	1,290,000	1,290,000
Vehicle Salvage Certs.(01)	0	15,000	15,000	0	30,000	30,000

General Fund Impact

(189,100)

(79,400)

Department of Health and Environmental Sciences-Motor Vehicle Recycling and Disposal

<u>Expenditures:</u>						
FTE	4.43	4.93	0.50	4.43	4.93	0.50
Personal Services	142,457	156,935	14,478	142,497	157,754	15,257
Operating Costs	50,027	62,093	12,066	50,326	62,392	12,066
Grants	824,538	824,538	0	824,538	824,538	0
Total	1,017,022	1,043,566	(26,544)	1,017,361	1,044,684	(27,323)
<u>Funding:</u>						
State Special (02)	1,017,022	1,043,566	26,544	1,017,361	1,044,684	27,323
<u>Revenues:</u>						
Wrecking Facility Lic(02)	10,750	9,250	(1,500)	10,850	9,350	(1,500)
Net State Special Impact			(28,044)			(28,823)

continued on next page

SB 232

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

A reduction in the Motor Vehicle Recycling and Disposal Program state special revenue account may reduce grants to counties.

TECHNICAL NOTES:

Section 5 of the bill amends 75-10-513, MCA, to provide Department of Justice representatives authority to inspect motor vehicle wrecking facility records and report to the Department of Health and Environmental Sciences. However, because subsection (3) of 75-10-513, MCA, deals with county-operated motor vehicle graveyard records under current law, it is not clear if wrecking facility violations are reportable in addition to graveyard violations.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0232, third readingDESCRIPTION OF PROPOSED LEGISLATION:

The bill requires surrender to the Department of Justice of the certificate of ownership of a vehicle less than 5 years of age determined to be a salvage vehicle; allows the Department of Justice to issue a salvage certificate for a salvage vehicle capable of being rebuilt; provides for the retitling of a salvage vehicle; creates a vehicle identification number inspection program; imposes a vehicle identification number inspection fee; requires the issuance of a salvage certificate for all junk vehicles; authorizes the Department of Justice to inspect the records of licensed motor vehicle wrecking facilities and to report violations to the Department of Health and Environmental Sciences.

ASSUMPTIONS:Department of Justice

1. 68,500 new and used "out-of-state" vehicles and 2,000 "salvage" vehicles will require vehicle inspection number (VIN) inspections each year. The inspection fee will be \$18.50 for each inspection.
2. 4,000 vehicles will require a Salvage Certificate each year with a fee of \$5 per certificate.
3. The VIN inspection program will be operational January 1, 1992. New inspection fee revenue is based upon six months of operation during FY92 and twelve months during FY93.
4. 40.00 FTE will be added in the Driver Services Bureau, Motor Vehicle Division, Department of Justice. The additional FTE include 30.00 Grade 12 Driver Examiners/Inspectors. The FTE will be phased-in during FY92 and will be fully staffed during FY93. Employee benefits are calculated at a rate of 22%.
5. VIN inspection services would be offered in all county seats where the number of vehicles registered and drivers licensed warrant the service. Part-time examiner/inspectors would be utilized on a five day per week basis in smaller counties wherever possible to optimize services and reduce travel costs. All counties with five day per week service would be automated in both the registrar's and driver services systems.
6. Current law is represented by the executive budget recommendation for the Driver Services Bureau of the Department of Justice.

Department of Health and Environmental Sciences

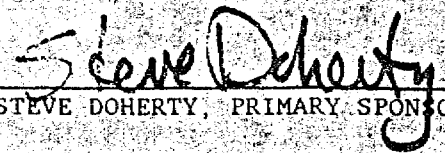
7. Inspections by the Department of Justice may result in the potential denial and/or revocation of 30 additional motor vehicle wrecking facility application/licenses each year. The license fee revenue loss for 30 facilities at \$50 each would be \$1,500 per year.
8. The increased workload associated with potential denials/revocations will require an additional 0.50 FTE Grade 14 technical staff for the 1993 biennium in the Motor Vehicle Recycling and Disposal Program in the Department of Health and Environmental Sciences. This position may not be necessary beyond that if compliance increases. Additional legal staff may also be necessary to handle administrative hearings and prosecution.
9. Current law is represented by the executive budget recommendation for the Motor Vehicle Recycling and Disposal Program in the Department of Health and Environmental Sciences.

FISCAL IMPACT:

see next page

 3-13-91
 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE

 3/14/91
 STEVE DOHERTY, PRIMARY SPONSOR

DATE

Fiscal Note for SB0232, third readingSB232-2

FISCAL IMPACT:

Department of Justice-Driver Services Bureau

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	86.05	109.55	23.50	86.05	126.05	40.00
Personal Services	2,002,000	2,571,600	569,600	2,000,300	3,007,200	1,006,900
Operating Costs	656,200	795,200	139,000	651,300	871,300	220,000
Equipment	56,500	134,300	77,800	56,300	111,300	55,000
Total	2,714,700	3,501,100	786,400	2,707,900	3,989,800	1,281,900
<u>Funding:</u>						
General Fund (01)	2,536,700	3,323,100	786,400	2,569,900	3,851,800	1,281,900
State Special (02)	128,000	128,000	0	88,000	88,000	0
Federal Special (03)	50,000	50,000	0	50,000	50,000	0
Total	2,714,700	3,501,100	786,400	2,707,900	3,989,800	1,281,900
<u>Revenues:</u>						
VIN Inspection Fees (01)	0	662,000	662,000	0	1,304,000	1,304,000
Vehicle Salvage Certs.(01)	0	10,000	10,000	0	20,000	20,000
General Fund Impact (decrease)			(114,400)			(42,100)

Department of Health and Environmental Sciences-Motor Vehicle Recycling and Disposal

Expenditures:

FTE	4.43	4.93	0.50	4.43	4.93	0.50
Personal Services	142,457	156,935	14,478	142,497	157,754	15,257
Operating Costs	50,027	62,093	12,066	50,326	62,392	12,066
Grants	824,538	824,538	0	824,538	824,538	0
Total	1,017,022	1,043,566	26,544	1,017,361	1,044,684	27,323

Funding:

State Special (02)	1,017,022	1,043,566	26,544	1,017,361	1,044,684	27,323
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Revenues:

Wrecking Facility Lic(02)	10,750	9,250	(1,500)	10,850	9,350	(1,500)
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

A reduction in the Motor Vehicle Recycling and Disposal Program state special revenue account may reduce grants to counties.

SB 232-2

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on February 13, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 232

Presentation and Opening Statement by Sponsor:

Senator Steve Doherty, sponsor of the bill, stated that he was asked to carry the bill by the department of justice and the chairman of the judiciary committee. The problems that the bill addresses is that Montana is becoming a growth industry of the stolen car business. Montana has become a haven for stolen cars. Montana consumers, because of the peculiarity of the titles, have bought stolen cars because titles aren't killed in Montana. Because there is a problem, the attorney general's office in cooperation with a number of businesses, business entities, insurance entities, and the people who are involved with the salvaged car business got together and had a task force over the last couple years. SB 232 is an outgrowth of that task force, it devises a way to kill the title in Montana, it provides a way to inspect vehicle identification numbers, and it figures out a way to pay for all of those things.

Proponents' Testimony:

Mark Rosco, attorney general, spoke in favor of the bill. He stated that this has been a product of a hard work of a number of people from a number of different interests that got together. They began back in January 1990, and there was a total number of four committee meetings held over a ten month period. Montana has become the dumping ground for stolen vehicles.

Melvin Mooers, special agent for the national automobile theft bureau, spoke in favor of the bill. He presented the committee with a great number of slides to show how in different incidences, a car can be stolen and made to be looked like it was a legitimate sale. Auto theft is the fastest rising crime in the nation at this time. Over a million and a half vehicles were stolen in the nation in 1989. Nationally a car is stolen every 20 seconds, in Montana a car is stolen every four hours and forty minutes. Montana has a 78% recovery rate. This is due to the person that is committing fraud changing the VIN numbers on the vehicles. Unsuspecting consumers can be taken in by this.

Daryll "Bud" Schoen, register of motor vehicles representing the department of justice motor vehicle division, spoke in favor of the bill (See Exhibit 1).

Peter Funk, assistant attorney general assigned to represent the motor vehicle division, spoke in favor of the bill. He had some proposed amendments to the bill (See Exhibit 2).

Gene Phillips, with the national association of independent insurers and the alliance of American insurers, he stated that both associations are in support of the bill.

Gary Rebel, president of the Montana auto dealers association, stated that they are in strong support of the bill.

Rick Later, sheriff for Beaverhead county of Dillon and representing the Montana sheriff's and peace officer's association, stated that they are in support of the bill.

Jon Dilliard, program officer for the motor vehicle recycling program and the department of health, spoke in favor of the bill (See Exhibit 3).

Ken Dietz, vice president of the dietz auto and truck salvage and president of the Montana automobile dealer dismantlers and recycling association, spoke in favor of the bill. He stated that the majority of the group he represents can work with SB 232, but would like an amendment made to guarantee that before the insurer can send the purchaser a salvage receipt they must first have a clear title and lien release sent to Deerlodge. This association needs a guarantee that they will have no problems getting a salvage certificate.

Jim Manion, representing triple A (AAA) Montana, spoke in favor of the bill. He stated that he had the pleasure of serving as the consumer on the task force, and after coming to realize the scope of the problem, certainly realized that the auto owners of Montana are going to benefit from this legislation. This bill directly solves the problem stated before in testimony.

Brent Sells, police officer for the city of Missoula, stated that he have found through his inspections and investigations that the people love Montana because we have an open title. When

a vehicle is salvaged, they give you an open title. The title is signed off by the owner, then in turn steal a truck out of Butte, take it over to Washington and sell it by switching the vehicle VIN plates.

Linda "Still" Anderson, representing county commissioner for Lewis and Clark county, she stated that she supports the bill.

Senator Fred VanValkenburg, senate district 30, stated that he served on the task force with in a dual role as a legislator and a prosecutor and is in favor of the bill.

Mike Varone, vice president of Norwest bank and MBA chairman, stated that he also served on the task force and would like the committee's support on this bill.

Jim Sturgill, representing himself, stated that he was one of the victims. In 1986 he bought a used truck from a dealer. He received a Montana title for the truck. He then found out it was stolen. It has taken eight months for his insurance to come through. It could happen to anybody.

Lee Johnson, compliance specialist for Montana motor vehicle division, spoke in favor of the bill. He stated he regularly inspects vehicles on a specialized basis. He stated that the inspection process is a administrative function, and shouldn't be confused with a law enforcement function.

Opponents' Testimony:

William Romine, appearing on behalf of Henry Lohr a wrecking yard facility operator in Townsend, spoke in opposition of the bill (See Exhibit 4).

Loretta Miller, owner of Green Meadow auto salvage in Helena, spoke in opposition of the bill (See Exhibit 5).

Questions From Committee Members:

Senator Thayer asked about the situation brought up by the proponents having to do with the fact that they have thousands of cars sitting in their lots currently for which they probably never got a title because they didn't intend to sell or rebuild the vehicle anyway they were just going to sell it as parts. Are they going to have to get those vehicles titled when they in fact can't get them titled. Will they be liable for a five hundred dollar fee.

Bud Schoen replied that this bill would go into effect January 1992, any vehicles in inventory selling would not be affected by this bill.

Senator Thayer asked if that is specifically covered in the bill that that does not pertain to any inventory that may be on hand as of 1/92.

Bud Schoen replied that is not specifically covered in the bill.

Senator Noble stated that it was indicated because of the way Montana titles are made up that is an easy thing that thieves could do something with. Is there a way to change the makeup of the title to help deal with this problem.

Melvin Mooers replied by saying that the problem that they have and what they were trying to accomplish was to kill the title. Take the titles out of circulation for salvage vehicles. The title itself is in good form just how it is.

Senator Gage commented that the statement of intent is ridiculous, how will anybody know the legislative intent with that kind of statement of intent on the bill. He suggested that the people should get together and revise the statement of intent.

Closing by Sponsor:

Senator Doherty closed by saying that the people of the department should be able to do some amending. Simply because a years worth of work they have some amendments doesn't mean that the bill is fatally flawed. The department of attorney general and the industry did a good job on trying to address a very serious problem.

HEARING ON SENATE BILL 169

Presentation and Opening Statement by Sponsor:

Senator Steve Doherty, sponsor of the bill, went through the bill. He stated that the task force had some other items that they weren't able to fit into one bill that they thought needed addressing. The basic tone of the bill would allow the department to decide on vehicle identification numbers, and bump the penalty provisions for altering vehicle identification numbers from a misdemeanor to a felony, and alters the penalty provisions for altering the odometer readings from a misdemeanor to a felony. The reasoning of the task force is if a person is messing with the VIN's or with the odometer there is only one reason for doing it. They are either going to steal a car or milk somebody out of a lot of money.

Proponents' Testimony:

Daryll "Bud" Schoen, chief registrar's bureau motor vehicle division department of justice, spoke in favor of the bill (See Exhibit 6).

Gary Rebel, president of the Montana auto dealers association, was on the task force and is in favor of the bill.

Jim Manion, triple A (AAA) Montana, he stated that AAA of Montana also served on that task force and is in favor of the bill.

Jacqueline Terrell, representing the American insurance association, spoke in favor of the bill. She proposed a few amendments to sub section ii line 16 be deleted.

Opponents' Testimony:

None

2/13/91

DATE

COMMITTEE ON

BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
William L. Romine	Henry Leher	SB 232		X
Ken P. Dietz	MADRA	SB 232	X	
Justin F. Lehman	MADRA	SB 232	X	
DARYLL (BUD) SCHAEEN	DOS-MOTOR VEHICLE DIV.	SB 232 SB 169	X	
Douglas T. Taylor	DOT DRIVER SERVICES	SB 232	X	
MELVIN C. MOORE	NATIONAL AUTO THEFT BUREAU	SB 232 SB 169	X	
Dean Roberts	DOS mvd unit	SB 232 169	X	
Jim Morrison	HRP RECORDS	SB 232 169	X	
Brent R. Sejls	Missoula Police Dep	SB 232 SB 169	X	
Geretta Miller	Green Meadow Auto Salvage	SB 232		X
Charlotte Maltzen	Moltzen's Auto	SB 232		X
Jon Dilliard	Dept. of Health	SB 232	X	
Jim Sturgis	Rep. Self	SB 232 SB 169	X	
Mike Varone	NURSE & MBA chair	SB 232 SB 169	X	
LEE JOHNSON	MOTOR VEHICLE DIVISION	SB 232 SB 169	X	
Fred Va. Valkenburg	Senate Dist 30	SB 232	X	
" "	" "	SB 169	X	
Linda Still	Self	SB 169 SB 232	✓	
RICK LATER	MT. Sheriff's Peace off.	SB 232 SB 169	✓	
Gene Turkulwicz	MT Auto Dealers Assn	SB 232 SB 169	✓	
GENE PHILLIPS	MAA & AAI	SB 169	X	
Steve Browning	STATE FARM Insurance	SB 169 SB 232	✓	
Marguerite Grevill	Amer. Ins. Assoc.	SB 169 SB 232	✓	
John W. Hall	MADRA	SB 232 SB 169	✓	

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 13 day of Feb, 1991.

Name: Curtis X Johnson

Address: 6767 Grand ave
Bellingham Mt

Telephone Number: 656 8935

Representing whom?

MADRA

Appearing on which proposal?

SB 232

Do you: Support? Amend? X Oppose?

Comments:

Support if good titles are given
time limit to get titles

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this _____ day of February, 1991.

Name: Ken Dietz

Address: 1104 Bench Blvd.
B. Millings Mt.

Telephone Number: 248-1204

Representing whom?

Montana Auto Dismantler & Recycling Assoc.

Appearing on which proposal?

SB232

Do you: Support? _____ Amend? X Oppose? _____

Comments:

We feel that the majority of our group can work with
SB232 But we need an amendment made to guarantee that
before the insurer can send the purchaser a Salvage Receipt
they must first have clear title & Lien Release sent to
Deer Lodge. We need a guarantee that we will have no
problems getting a Salvage certificate

ROLL CALL

Business&Industry COMMITTEE

DATE 2/13/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Bruski	X		
Senator Franklin	X		
Senator Gage	X		
Senator Hager	X		
Senator Noble	X		
Senator Thayer	X		
Senator Williams	X		
Senator Kennedy	X		
Senator Lynch	X		

Each day attach to minutes.

SENATE BILL 232 -- STATEMENT

Prepared by: DARYLL E. (BUD) SCHOEN
CHIEF, REGISTRAR'S BUREAU
MOTOR VEHICLE DIVISION
DEPARTMENT OF JUSTICE

February 12, 1991

Section 1. Beginning on page 2 this new section defines the elements involved in vehicle salvage.

Section 2. Page 5, lines 6 and 7, replaces the outmoded term serial number and replacing it with the term vehicle identification number.

Pages 5, 6, 7 and 8, these new subsections are the basic operating sections for the new inspection program and provide for the inspection of the vehicle identification number on all new vehicles brought into the state, except those sold by a Montana new car dealer, all used vehicles brought into the state, and all rebuilt and reconstructed vehicles, allows the department to contract for inspection sites and establishes an inspection fee of \$15 for a regular inspection and \$75 for a "rebuilt" inspection, there is also a provision for the seizure of any vehicle which has an altered V.I.N. or which appears from the record to have been stolen and the vehicle can be held until legal ownership has been verified.

Section 3. Page 8 provides that unencumbered titles for salvage vehicles acquired by an insurer be submitted to the registrar within 15 days of the time the title is obtained, and that a salvage certificate will be issued within 5 days by the registrar to the insurer as an ownership document for the salvage vehicle. This section also provides for the sale of a salvage vehicle within the 15 day limit mentioned above, and provides for a "salvage receipt" to be issued by the insurer which can be used by the purchaser to apply for a salvage certificate. (The insurer is still responsible to submit the title to the Registrar.)

The section also provides for the retention of the salvage vehicle by an owner who must then apply for the salvage certificate and submit the title.

The section establishes a \$5 fee for a salvage certificate.

Section 4. Page 10 This section establishes the methods of inspection for salvage and reconstructed vehicles, and requires documentation establishing ownership of the vehicle and/or constituent parts. The section also provides for a 72 hour permit allowing the vehicle to be moved to an inspection facility.

The section also provides for a misdemeanor penalty of a fine not to exceed \$500 for failure to comply with the provisions of the act.

Section 5. Page 13 line 6 through 10 amends 75-10-513 M.C.A. deleting the issuance of salvage receipts under present law.

On lines 14 through 19, the section adds new language authorizing the department to have access to wrecking facility records to insure compliance with the act.

Amendments to Senate Bill 232
Introduction CopyPrepared by Peter Funk
Department of Justice
February 12, 1991

1. Title, line 10.
Strike: "REBUILT"
2. Page 3, line 7 through line 9.
Strike: All of subsection (6).
3. Page 3, line 10 through line 13.
Strike: All of subsection (7).
4. Page 6, line 2.
Strike: "rebuilt".
5. Page 6, line 3.
Strike: "vehicle or reconstructed vehicle".
6. Page 6, line 12.
Strike: "rebuilt" and "or reconstructed vehicles".
7. Page 6, line 14.
Strike: "\$15"
Insert: "\$17.50".
8. Page 6, line 17 through 18.
Strike: "rebuilt" and "or reconstructed vehicle".
9. Page 6, line 22 through line 23.
Strike: "rebuilt" and "and reconstructed".
10. Page 7, line 1.
Strike: "rebuilt" and "and reconstructed vehicle".
11. Page 10, line 23.
Strike: "rebuilt" and "or reconstructed vehicle".
12. Page 10 and 11, line 25 through line 1.
Strike: "it is a rebuilt salvage vehicle".
Insert: "one has been issued".
13. Page 11, line 1 through line 2.
Strike: "if it is a reconstructed vehicle".
- !4. Page 11, line 4.
Strike: "or reconstructed".
15. Page 11, line 9.
Strike: "rebuilt" and "or reconstructed".

16. Page 11, line 12 through line 18.
Strike: All language following "verify".
Insert: "the identity of the vehicle".

17. Page 11, line 20.
Strike: "or reconstructed".

18. Page 12, line 1 through line 3.
Strike: "for a rebuilt salvage vehicle or certificate of ownership
for a reconstructed vehicle".

19. Page 12, line 6 through line 7.
Strike: "rebuilt" and "or a reconstructed vehicle".

20. Page 12 and Page 13, line 20 through line 19.
Strike: All language.
Insert: (See Attachment A).

21. Page 13 and Page 14, line 20 through line 14.
Strike: All of Section 6.

ATTACHMENT A

75-10-512. Records required of facilities. (1) Every motor vehicle wrecking facility shall maintain books or files in which are kept a record and description of every junk vehicle obtained by it, together with the name and address of the person from whom the vehicle was purchased.

(2) This record shall also contain:

(a) the certificate of ownership, sheriff's certificate of sale, notarized bill of sale from the former owner, or sheriff's release;

(b) the name of the state where the vehicle was last registered;

(c) the make of the vehicle;

(d) the motor or identification number or serial number;

(e) the date purchased;

(f) the disposition of the vehicle.

(3) An authorized representative of the department of justice who presents his credentials may also inspect, have access to, and copy records required under 75-10-512. Authorized representatives of the department of justice may report violations of this part to the department of health and environmental sciences."

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

FAX #(406) 444-1499

STATE OF MONTANA

OFFICE 836 Front Street
LOCATION: Helena, Montana

MAILING Cogswell Building
ADDRESS: Helena, MT 59620

Solid and Hazardous Waste Bureau
(406) 444-1430

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 2/13/91

FILE NO. SB 232

February 7, 1991

DHES TESTIMONY ON S.B. 232
CREATE JUSTICE DEPT SALVAGE AND MOTOR VEHICLE
INSPECTION/IDENTIFYING PROGRAM

Although the Department of Health and Environmental Sciences has no objections to the intent of the proposed legislation, we are concerned about the structure of some of the changes as proposed.

The Department of Justice's desire to allow their representatives access to motor vehicle wrecking facility records to help prevent the possibility of vehicle titling fraud or theft is understandable. However, we believe that the proposed amendment to Section 75-10-513 (3), MCA, is misplaced. To understand our concern with this amendment it is necessary to first understand the difference between a "motor vehicle wrecking facility" and a "motor vehicle graveyard". As defined in the Motor Vehicle Recycling and Disposal Act a motor vehicle wrecking facility means "a facility buying, selling, or dealing in four or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a motor vehicle". It is these type of facilities which the Department of Justice proposes to inspect. On the other hand a motor vehicle graveyard means "a collection point established by a county for junk motor vehicles prior to their disposal". These "graveyards" are the 59 storage and recycling areas used by the county junk vehicle programs for the vehicles released to the state.

The paragraph that the Department of Justice has chosen to amend in the Act deals specifically with the records required of county junk vehicle collection programs for the junk vehicles they have collected and stored in their graveyards. It has no bearing whatsoever on the required records for motor vehicle wrecking facilities. Since the release of ownership records for the county graveyard vehicles are submitted to the Department of

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 2/13/91
BILL NO. SB 232

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 13th day of February, 1991.

Name: William L. Romine

Address: P. O. Box 1691 (320 E. 6th Ave.), Helena, MT 59624

Telephone Number: 442-2220

Representing whom?

Henry Lohr (wrecking yard owner)

Appearing on which proposal?

S.B. 232

Do you: Support? Amend? Oppose? x

Comments:

Please see attached testimony. .

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Mr. Chairman and Members of the Committee, my name is Bill Romine and I am appearing on behalf of Henry Lohr, the owner of a wrecking facility near Townsend. I am here in opposition to S.B. 232, especially that part which affects the wrecking yards of this State.

First of all, Section 4, page 12, lines 11 through 16 will require all of the wrecking yards to request salvage certificates on all the vehicles in their yards on the day this Bill becomes effective. There are thousands of such vehicles in this State and Deer Lodge will be swamped for months. Until the certificates are issued, every wrecking yard in this State will be in violation of the law and subject to a \$500 fine on each vehicle.

Second, in many instances the wrecking yard does not get a title. Most people do not carry the title to their car with them. If an out-of-state car is wrecked in Montana and sold to a yard, the owner gives a release, and although he may agree to send the title, he very seldom does so. Under this Bill, the wrecking yard could not get a salvage certificate.

Third, under the provisions of Sections 3 and 4, we have a catch-22 situation. The insurer can sell a totalled vehicle to a wrecking yard without a salvage certificate, under Section 3, if it does so within 15 days of receiving the title. But, under Section 4, the wrecking yard cannot possess such a vehicle because it would not have a salvage certificate.

Fourth, the fiscal note shows that this Bill will have a severe impact on both the General Fund and the Department of Health & Environmental Fund. However, it will actually have more impact than is shown on the fiscal note. The note points out that the Bill will put 30 yards a year out of business. This will mean a loss to tax revenue paid by the yards, plus the loss of tax revenue from those employees put out of work. There will also be an increase in unemployment compensation payments.

Fifth, that part of Section 4 concerning re-builts has some problems. The State Inspector must verify the parts used in the re-builts are not stolen. What inspector would stick his or her neck out that far? In addition, the re-builder has to have receipts for every part used in the re-build. Most of the parts will probably come from vehicles in his wrecking yard. This Bill will create a paper nightmare for not only the wrecking yard but also the Department.

Sixth, Section 3, which concerns the disposal of wrecked vehicles by the insurance companies discriminates against wrecking yards and the general public. The Department must issue a salvage certificate to the insurance company within 5 working days. However, there is no time limit on the Department when issuing a certificate to a wrecking yard. In fact, there is no time limit in issuing a title on a new or used vehicle to the general public. Why insurance companies are given preferential treatment is beyond me. There is already a sizeable delay in

getting titles from Deer Lodge, and with the addition of inspections, salvage certificates, additional paper work and preferential treatment for insurance companies, the delays to the general public will be even longer.

Seventh, Section 2, page 6 creates regional inspection sites for the inspection of re-builts and re-constructed vehicles. Since we do not know the size of the regions, re-builders might have to travel hundreds of miles to have the vehicle inspected. To do this, the re-builder first submits his certificate of ownership to the Department, along with his receipts and bills of sale. He then applies for a 72-hour temporary registration permit from the Department. Next he calls to make sure an inspector will be at the regional inspection site. He travels to the site, with all of his papers, has the vehicle inspected, secures the inspection report and then sends all of these papers to the Department for a new title. Again, more and more paperwork. In addition to having to pay the normal fees to title the vehicle, he will also have to pay \$75.00 for the inspection and probably a fee for the temporary permit. We must also realize that this Bill also affects the general public. A person who replaces the bed on his pickup, must go through all of the above steps and have his truck re-titled because he now has a re-constructed vehicle. In fact, the change of a radiator can, under this Bill, be considered a re-constructed vehicle. (See Section 1, page 3, lines 3 through 6 and lines 10 through 13).

Finally, there are going to be some very angry and frustrated people when they go to register their car after moving to Montana. Take the case of a family moving to Montana from Idaho. Both parents work, and the husband takes the titles to their two cars to the Treasurer's Office during his lunch hour. After standing in line for a half hour or so, he finds out he must have the cars inspected first. Well, that is one lunch hour shot. Now he has to find the time to take the two cars to be inspected. I submit that he would not be able to have inspections done during the noon hour. Right now you cannot take a driving test here in Helena except on Mondays, Wednesdays and Fridays, but even then, not during the noon hour. I do not think things will get better if this Bill passes.

I urge the Committee, for all of the reasons stated above, to give an unfavorable recommendation to S.B. 232.

WITNESS STATEMENT

NAME: Loretta Miller DATE: 2/13/91
Green Meadow Auto Salvage
ADDRESS: 7313 Green Meadow Dr SENATE BUSINESS & INDUSTRY
PHONE: 458-9204 EXHIBIT NO. 5
DATE 2/13/91
BILL NO. SB232
REPRESENTING WHOM? Green Meadow Auto Salvage
APPEARING ON WHICH PROPOSAL: SB 232
DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X
COMMENTS: see attached sheet

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

undercut some of the opposition of the bill which is not to the original bill, but to the amended bill. The original bill, without the amendments would do the job. The amendment could wait until next session and come back with a clean bill on that subject.

Senator Noble asked what the original purpose was of the bill.

Senator Lynch stated that the original bill's purpose was to bring in new insurers that are now listed as foreign insurers to make them domestic insurers. This goes further and gets into some captive.

Senator Thayer asked in the original bill would they be part of the assigned risk pool.

Robert Minto stated that the original bill will only deal with stock companies that are mutual to their part of the assigned risk pool guarantee fund. That is the difference between the two. They will still be able to use this bill. They will still be able to attract insurers, they are just not going to be able to track as many of the smaller companies as they might be able to with the amended. If the committee doesn't pass the amendment then the only thing that it will cover is stocks and mutuals.

Closing by Sponsor:

Senator Fritz closed.

EXECUTIVE ACTION ON SENATE BILL 232

Motion:

Senator Thayer moved the amendments proposed do pass.

Senator Noble moved to do pass SB 232 as amended.

Senator Noble moved to do not pass SB 232 as amended.

Discussion:

Senator Lynch stated that SB 232 deals with the surrendering of the certificate of ownership. They have had some talk about seventy five dollars is a little harsh to inspect a two hundred dollar vehicle.

Senator Gage stated that the title appears to be the big problem in this area. If somebody could come up with language that says that the junk dealers stamp those things or the insurance companies stamp those things with something that says for a junk vehicle, or something to identify the vehicle.

Peter Funk stated that there are a couple of problems with that. One being, more vehicle titles are secure documents which are produced and designed so that except for their execution. If you have the holders of the titles making those types of changes on them, it really flies in the face of the entire nationwide titling system. They have discussed an option where all of the employees and the costs that are involved with the bill comes on

the VIN inspection site, primarily section two of the bill. They have discussed whether it would be better to have the bill simply require the issuance of the salvage certificate, and then strike all of the VIN inspection portions of the bill. The problem there is, it does not address the problem that they are trying to address because now a crook can go to a salvage yard, buy a piece of salvage for the title and then do the salvage switch that was discussed at the hearing, and come back and use the title. If they don't inspect at that point, after the issuance of the salvage certificate, then the crook just brings the county treasurer's office the salvage certificate gets a new title, and nobody ever goes out and looks at the car. They don't know any other way other than having the register's office do the stamping or do the issuance of the new document that the bill requests. The whole system is designed so that nobody other than the motor vehicle registrar can tinker with the title. The issuance of salvage certificates without a VIN inspection is a meaningless exercise.

Senator Noble stated that it was testified that you don't need to buy a vehicle from a salvage yard, you can go give them a hundred dollars and buy a title of anything that you want. He stated that this bill has a lot of problems.

Senator Lynch stated that somebody said that you can go any place in Montana and buy a title for a hundred dollars. Do they know where they are, can't they go to jail for something like that.

Peter Funk replied that that information comes essentially from some of the salvage people themselves. That they know that there are some of their members that are in the business of selling titles. The thief doesn't care about the junked car except they can take the VIN numbers off of it and put them on the stolen vehicle.

Senator Thayer asked that the department explain the amendments.

Peter Funk stated that paragraph two on the amendment, they have inserted to attempt to alleviate the concerns of the salvage folks that testified, to make it clear that this system is not designed in any way to impact any salvage vehicles which are in that statutes at the time that the bill becomes law. Their intent is just to deal with those vehicles that insurers determine to be total losses after the effective date of the bill. Amendment number one, there is language on the bill that was originally drafted which addresses what happens if an insurer is not involved and a vehicle simply becomes salvage and this particular sentence gives the department the authority to approach someone that has a salvage vehicle that hasn't been told by an insurer, and say you have to get a salvage certificate for that vehicle. In order to simplify the bill, what they are proposing in the first amendment is to say let's take this language out of the bill so the sum total of vehicles which will be involved in the system are only those vehicles that go through an insurers hands, and only those vehicles that are totalled by insurers. Their feeling being that it is far in the way of the majority of vehicles that thieves are interested in doing salvage

switches on. If vehicles are uninsured and they become salvage the point of fact is they are probably not worth enough to keep thieves interests anyway.

Senator Gage pointed out the absurdity of the statement of intent. It gives no intent what so ever of the intent of the legislature.

Amendments, Discussion, and Votes:

Senator Gage stated that it doesn't appear that the second amendments do much for the junk yard folks.

Senator Thayer stated that the new language would be inserted there.

Senator Gage stated that the new language says "if they have complied with this".

Senator Lynch stated it sounds like they are giving it to them and then taking it away again.

Peter Funk stated that section 75-10-513 is existing law. Their feeling is that the salvage operators shouldn't have it both ways. If they are not complying with existing law, which requires them to send in a list of all the vehicles which they possess on a quarterly basis, then why should they be excused from the provisions of this act if they are not following existing law. The amendments say that if they follow the existing law, they will forget about them. If they don't follow existing law, then perhaps their yard needs to be taken a look at.

Senator Thayer stated in defense of the amendment, if they want to send the title in they don't have to worry about a fee. But if they are rebuilding a vehicle they should pay a fee whether it is in the yard currently or if it is a new vehicle that they are going to buy tomorrow. The salvage operator has that option, and this amendment clarifies and answers the concerns of those people.

The amendments proposed passed unanimously.

Recommendation and Vote:

The motion to do pass SB 232 as amended failed 6 to 3 votes.

The motion to do not pass SB 232 as amended passed 6 to 3 votes by way of votes being reversed.

Senator Kennedy asked to have his vote reversed.

Senator Lynch replied without objection that he would allow his vote to be reversed.

The motion to do not pass SB 232 as amended passed 5 to 4 votes.

EXECUTIVE ACTION ON SENATE BILL 169

Motion:

ROLL CALL VOTE

SENATE COMMITTEE

BEI

Date

2/21/91

Bill No.

SB232

Time

5:00

NAME

YES

NO

WILLIAMS

THAYER

X

NOBLE

X

HAGER

X

GAGE

X

FRANKLIN

BRUSKI

X

KENNEDY

X

LYNCH

X

D ANDERSON

Secretary

JD LYNCH

Chairman

Motion:

TO AMEND

ROLL CALL VOTE

SENATE COMMITTEE B&I

Date 2/21/91 Bill No. SB 232 Time 5 PM

NAME	YES	NO
WILLIAMS	X	
THAYER	X	
NOBLE		X
HAGER		X
GAGE		X
FRANKLIN		X
BRUSKI		X
KENNEDY		X
LYNCH	X	

D ANDERSON
Secretary

JD LYNCH
Chairman

Motion: DO PASS AS AMENDED

ROLL CALL VOTE

SENATE COMMITTEE

B & I

Date

2/21/91

Bill No.

SB232

Time

5:00

NAME

YES

NO

WILLIAMS

X

THAYER

X

NOBLE

X

HAGER

X

GAGE

X

FRANKLIN

X

BRUSKI

X

KENNEDY - ^{asked to hear} ~~has not answered~~

(X)

→

LYNCH

X

D ANDERSON

Secretary

JD LYNCH

Chairman

Motion:

DO NOT PASS AS AMENDED

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 22, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 232 (first reading copy -- white), respectfully report that Senate Bill No. 232 be amended and as so amended do not pass:

1. Page 9, line 21 through page 10, line 1.

Following: "(4)" on page 9, line 21

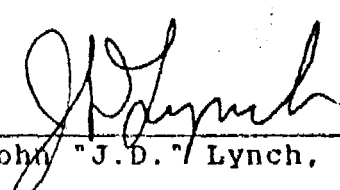
Strike: remainder of line 21 through "." on page 10, line 1

2. Page 10, line 21.

Following: line 20

Insert: "(7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of 75-10-513(2)."

Signed: _____


John "J.D." Lynch, Chairman

 2-22-91
Amd. Coord.

2-22-91 9:40
Sec. of Senate

REP. BACHINI placed SB 272 in a subcommittee with REP. CROMLEY, Chairman, REP. SHEILA RICE and REP. NORM WALLIN committee members.

HEARING ON SENATE BILL 232

Presentation and Opening Statement by Sponsor:

SEN. STEVE DOHERTY, SD 20, Great Falls, introduced SB 232 at the request of the Department of Justice. It arises out of a problem Montana has with the growth industry that we really don't need. The industry that is growing in scope and extent in Montana is the problem of stolen vehicles. SB 232 is an Act to require surrender to the DOJ the certificate of ownership of a vehicle that is less than 5 years old determined to be a salvage vehicle; to allow the Department to issue a salvage certificate for a salvage vehicle capable of being rebuilt; to provide for the retitling of a salvage vehicle; to create a VIN inspection program; to impose a vehicle identification number inspection fee; to require the issuance of a salvage certificate for all junk vehicles; to authorize the Department to inspect the records of licensed motor vehicle wrecking facilities; to allow the Department to report to the Department of Health and Environmental Sciences violations of Title 75, Chapter 10, Part 5, MCA; and amends several sections.

The attorney general a couple of years ago decided to do something about this problem and brought together a number of different interest groups: the automobile dealers, the bankers, the insurance companies, the statewide Automobile Dismantlers Association, and law enforcement personnel in order to sit down and figure out what we in Montana could do to solve this problem which is becoming more serious each year. The problem is that in Montana we do not kill the title to vehicles. With the sophistication of today's car thieves they will buy a junked car of a certain make and model. They will then steal a similar automobile at a far removed site, actually in some cases from Montana, they will then bring the vehicle back into Montana and change the vehicle identification numbers and voila they have a stolen car with a good title which they then can sell to Montanans or anybody else. That can result in some very serious heartbreaks as was heard in the Senate committee. The story of an individual in Missoula who had the unfortunate luck of buying such an automobile and finding out sometime later the vehicle was stolen and it was needed as evidence. This bill will solve that problem by killing the title to a car when the car is totalled so that no one will have an incentive to buy a title and to switch the vehicle identification number plates. Apparently those VIN numbers are not only on the dashboard, but are hidden in various places on all different types and makes of automobiles.

The other thing the bill will do is set up a vehicle identification number inspection scheme. The amendments put on the bill in the Senate clearly identified that we are not going

to inspect every junked automobile in the State of Montana. That is a task that nobody can afford to do. The plan is to start at one point in time in the future after the enactment of this bill when all vehicles coming into the State will have to be inspected to make sure the vehicle identification numbers and the titles match. In order to do that it is necessary to have folks who are very well trained to spot vehicle identification numbers and spot forgeries in those VIN plates. This bill provides a method of financing in order to pay those FTEs who are going to be needed if this problem is to be stopped.

This bill is the result of a lot of work by many different concerned individuals in the automobile industry. It was extensively debated in the Senate. There were some amendments put on in the Senate that can be lived with but they aren't too happy about. This is a very necessary first step. It is a very scaled down version of a program that we need to adopt in Montana if we are: 1. going to begin to stop these stolen car thieves and the stolen car theft rings that are beginning to operate in Montana; and 2. going to begin to protect consumers in Montana. That is what the bill is about.

Proponents' Testimony:

Marc Racicot, Department of Justice, encouraged as strongly as he could the Committee to give this bill favorable consideration. It is the product of a great deal of work conducted by a number of very knowledgeable people who were involved in an auto theft and consumer fraud task force over a period of ten or eleven months. There were four full committee meetings over that time. There were county commissioners, the Butte Silver Bow County Sheriff, the Department of Health, State Farm Insurance Companies, used car dealers, the executive vice president of the AAA of Montana, salvage owners and operators in Montana, county attorneys, people representing the banking industry, attorney general's people, the Motor Vehicle Registration and Titling personnel were all members. They first met in January 1990 and conducted a number of meetings thereafter. Their goals were to try to estimate the size and scope of the problem in Montana and to make the kind of changes that are necessary to address that.

Montana has become a dumping ground for stolen vehicles because we don't kill titles, nor do we inspect vehicle identification numbers on foreign vehicles. Montana has risen significantly in the eyes of the press and become the topic of an article in the National Auto Theft magazine which did a profile in their winter issue on stolen California cars being sold in Montana by a theft ring. Seven of those vehicles ultimately ended up in Butte, Montana, and there were seven innocent victims who purchased vehicles believing they had adequate titles to support them, and in fact did not. This VIN tampering or auto fraud or odometer tampering is a highly sophisticated crime. It is not something that just any one would be competent to be involved in from an investigative point of view. This VIN number process is not only something that is on the dashboard, but there are numbers on the

door and numbers throughout the entire vehicle from the motor to various parts of the car and there are experts here who will explain that. As a consequence it is not easy for a law enforcement officer who has not been trained and does not have the experience in this particular arena to be able to inspect or detect those kind of changes in a vehicle.

Montana citizens presently have absolutely no way of protecting themselves against this kind of crime. In addition, car dealers in the State are not always capable of detecting that they have purchased stolen vehicles because it is a very, very, sophisticated business. The solutions they sought were to keep this process as simple as possible with the least amount of expense to the people of Montana, while at the same time trying to make certain that an effective solution was developed. There has generally been overwhelming support of all segments of the auto industry. Virtually every topic that could be contemplated was looked at throughout the course of these hearings conducted in Helena.

This bill has had a great deal of scrutiny. The amendments made in the Senate are not such that they will in any way make this bill less effective in terms of the ability to work with this as a positive first step toward addressing the problem of vehicle theft and odometer fraud in the State. He strongly urged this bill be given a very careful look and asked for favorable consideration because it really will protect the people of Montana in many, many ways and be a strong first step toward the consumer protection needed in this particular arena.

Brent Sells, Police Officer for the City of Missoula, said for the last three years he has been involved in the investigation of motor vehicle thefts, especially in his community. During those particular time frames he recovered fourteen stolen motor vehicles in the Missoula area. A conservative estimate of the value of those vehicles was a quarter of a million dollars. The last two vehicles recovered were two late model GM 4-wheel drives valued at \$41,000. Vehicle theft is a #1 property crime in this state and it is exceeding national statistics for these particular cases that have come to light. He is the particular officer who has acquired some expertise in identifying these particular motor vehicles.

It is a sophisticated crime, not every field officer has the technology or the knowledge to detect what a stolen motor vehicle is, or whether a VIN has been altered or tampered with. The problem is extremely unique. He explained what a 'salvage switch' is. Every motor vehicle has public identifying features like the plate on the dash along with some decals that are in public view. The motor vehicle industry recognizes that motor vehicle theft is a problem, they therefore place confidential VIN (vehicle identification numbers) on various components of a motor vehicle. This information is available to law enforcement officers; the general public does not have this information, therefore, it is a

useful tool for officers.

The bad guys buy a salvaged vehicle, or vehicle that is totalled, for the purpose of having a clear Montana title. When he interviews suspects and talks to them they say they just love these Montana titles. They take the VIN off the salvage or totalled vehicle and the decals, take that vehicle's components and put them on a stolen vehicle. They use the components off that salvage vehicle and that is just gravy to them. The particular case he was involved in two years ago was primarily out of Washington State. Missoula is unique, they have an insurance industry network salvage pool which is in Missoula because it is centrally located into which all salvage vehicles will go. The particular individual in this case purchased salvage from the Missoula Salvage Yard, took that salvage over to Wenatchee, WN, and looked for similar vehicles. If it was a small Ford truck or full size truck the subsequent vehicle that he would steal would be similar. He would take it to Wenatchee, take the salvage ID numbers from the Montana vehicles along with the corresponding title, apply that on those stolen vehicles, then bring them back into Montana because Montana has no inspection laws. Washington State does have an inspection law so they would be foolish if they were to resell them in the State of Washington.

The individual in this particular case was involved in bringing vehicles back and forth into Montana; the salvage out of Montana, the stolen ones back into Montana. His name was Crawford, he was 57 years old. These are not kids we are talking about, these are adults, sophisticated people that know what they are doing and their intent is to deprive a Montana citizen of their particular vehicle. He displayed some photographs involved in the Washington case. One picture is unique in that the salvage was a burned Blazer whose ID numbers were transferred onto the stolen Blazer by its side in the picture. It is very rare to get the salvage and the stolen vehicle side by side. The ones they prefer to steal are late model 4-wheel drives, luxury cars, minivans, very sought after vehicles, especially in Montana communities.

Another case involved an individual by the name of Berger. They were a husband and wife team, he is 38 years old, she is 34 years old. They are not kids who are doing this. They intend to defraud the individual motor vehicle owner. When asked why he bought Montana salvage cars, Crawford told the officer because the titles do not reflect whether the vehicle has been salvaged, they are not branded, they are not disfigured, the title stays wide open. In some cases he will take those titles and acquire loans against the titles because the financial institutions don't even view the vehicle, they take the Montana title as a very gospel fact. Crawford loves Montana titles and they are very much sought after.

When he interviewed Mr. Berger who had victimized a Butte Chevrolet dealership by taking the salvage off a 1988 burned

Chevrolet pickup for which he paid \$1300, he also got all the identifying features and the complementary title. He then stole a similar looking vehicle from a Butte dealer and sold that vehicle to a Washington State car dealer. The only bad thing about that is that Washington State did have to inspect that vehicle since it was foreign, and he got caught. During the time frame before he got caught, he also stole a late model Chevrolet Blazer from a Missoula dealer. In turn he had taken the VINs from the salvage Blazer he purchased in Missoula for \$3,700, he put those identifying numbers on a stolen 1988 Chevrolet Blazer, sold that to Billings Auto Auction and netted over \$11,000. It is a very profitable scheme. Berger sold the Butte stolen truck in Spokane, Washington, and netted \$9,900 out of that transaction. The Blazer stolen from a Missoula dealer sold to the Billings Auto Auction netted him \$11,025. In six months' work he netted close to \$20,000 for this particular scam.

The attorney general mentioned Montana unfortunately got national headlines because of a story in the National Auto Theft Journal, which is a publication that auto theft investigators keep current on the upcoming trend in investigation, published an article about stolen California cars sold in Montana by a theft ring. That unfortunately gave Montana national headlines and coverages for this particular scam.

Vehicle strip, people are stealing vehicles stripping them, taking the engines, other parts, it is becoming an epidemic problem in Montana. The victims in this particular case are the Montana citizens, the trusting people of Montana. He was unfortunately unable to bring Mr. Sturgill an individual from whom he seized a vehicle to today's hearing. He seized 12 vehicles from private individuals in the Missoula area. When he asked to inspect their vehicles, they were very willing; and when he determined it was a stolen vehicle they were somewhat surprised with somewhat hostile reactions when he seized their car. With the bills proposed at this point in time, this would eliminate this feature. He totally supports HB 232.

Daryll "Bud" Schoen, Registrar of Motor Vehicles, DOJ, Motor Vehicle Division, handed out a prepared statement EXHIBIT 3. He explained the amendments. Section 1 on Page 2 defines all the elements involved in vehicle salvage. Section 2, Page 5, lines 8 and 9 replace the outmoded term 'serial number' with 'vehicle identification number' which is the common term now used in the industry. Section 2 also contains new subsections which are the basic operating sections for the new inspection program. All new vehicles coming into the State will be inspected except those vehicles brought into the State by Montana new car dealers. All used vehicles coming into the state, and all salvage vehicles being retitled will be inspected. It also allows the Department to contract for inspection sites to inspect vehicles that are being reconstructed to be put back on the road; provides for an \$18.50 inspection fee for state inspections and salvage vehicle retitling inspections. There is also provision that the

Department may seize a vehicle if it appears to be stolen or there appears to be altered VINs or other problems with the vehicle.

Section 3 on Page 8 provides the title to salvage vehicles less than 5 years old which are considered a total loss by an insurer shall be surrendered to the Department and they shall issue a salvage certificate to an insurer. He can transfer that salvage certificate to a salvage buyer. If a salvage buyer purchases it within the first 15 days after an insurer receives a clear title from the insured, the insurer can provide a salvage receipt to a salvage buyer, then the salvage buyer shall apply for a salvage certificate. It also provides if a salvage vehicle is retained by an owner, they call this an owner keep if an insurer decides not to take possession of the vehicle and lets the owner keep the vehicle, then the owner of the vehicle may apply for a salvage certificate. It establishes a \$5 fee for a salvage certificate. It also provides salvage vehicles in the inventory of motor vehicle wrecking facilities as of October 1, 1991, would be exempt from the provisions of having to apply for salvage certificates as long as they comply with Section 75-10-513(2) which at the present time requires wrecking facilities to report quarterly to the Department all vehicles acquired by them during the previous quarter. If they want to rebuild a vehicle, the Department supplies salvage receipts to them.

Section 4 beginning on Page 11 establishes the methods of inspection of salvage vehicles, requires documentation establishing ownership of the vehicle or major parts used to rebuild the vehicle. It also provides for a 72 hour permit so a rebuilt salvage vehicle can be transported to an inspection site to be inspected. It provides for a misdemeanor penalty of up to \$500. The original bill as drafted amended 75-10-513 to delete the requirement the Department would issue a salvage receipt to wrecking facilities. On Page 13, beginning on line 4, that has been deleted, and salvage receipts will continue to be issued to wrecking facilities for salvage vehicles received by them which are exempt from the salvage certificate provisions.

Section 5 Page 15, lines 17 through 20 provides that a DOJ representative may have access to records of wrecking facilities. At the present time they have no authority to go to a wrecking facility to inspect their records to find out if they have any titles lying in the files, and if they have completed their quarterly reports as required. This would give them authority to do so.

Section 6 Page 15, line 22 contains codification instructions.

Peter Funk, Attorney General's Staff Attorney assigned to represent the Motor Vehicle Division, addressed the issue that the salvage operators of the State have raised concerning whether they will be caught up in this process in terms of vehicles which remain in their inventory in wrecking yards that are not

subsequently sold. On the Senate side on Pages 10 and 11 of the bill there was some language inserted to cope with that concern. The vehicles in the inventories, as Mr. Schoen explained, on the affected date of the Act will not be subject to the requirements for obtaining these salvage receipts and salvage certificates.

The sentence on Page 12, line 21, in the Senate amended bill may have some confusing aspects. It reads 'A salvage-vehicle purchaser may not possess or retain a salvage vehicle that does not have a duly assigned salvage certificate.' The process reflected in the bill is that initially when these titles are turned in to the DOJ a salvage receipt is initially issued, and that vehicle can be sold by an insurer to a salvage purchaser on the salvage receipt, then the bill has a trigger embodied in it that when that vehicle is subsequently sold from the salvage purchaser to whomever, that a salvage certificate must actually be obtained.

Built into this bill is a \$5 charge for getting those salvage certificates. The brief amendment before the Committee is designed to address that concern. EXHIBIT 4. It will allow salvage operators to retain these vehicles. The titles still have to be turned in, so the law enforcement concern has been coped with, but the change in the one sentence in the bill is designed so that salvage operators can retain these vehicles without having to go through the salvage certificate issuance process which means essentially until they sell that vehicle, as long as it sits in a wrecking facility it does not need to have a salvage certificate issued. A salvage receipt is fine, but then if that vehicle is disposed of, is sold a second time, then a salvage certificate needs to be issued. That is what the amendment reflects. The first provision of the amendment deals with a line in the title. That line reads to require the issuance of a salvage certificate for all junk vehicles. That was never the intent of this legislation from the start. That is amendment 1. It just doesn't accurately reflect what the bill does. Amendment 2. concerns the sentence which has already been described.

Dean Roberts, Administrator of the Motor Vehicle for the DOJ, stated as far as the basic wrecking facility goes, this bill when the amendments are in place does not change their status under the present law. The things they have to do under present law they have to continue to do. They can continue to run on a salvage receipt. They can continue to buy vehicles off the street without a title, as long as it doesn't come from an insurer. The wrecking yard can still make the same business decision when buying a car off the street or from someone's backyard he has always made. He can buy that car without a title, but if he sells it the buyer will request a title, and he will have to get a title for it. Or if he has a title he can turn that title in to the DOJ just as he can now by law and get a salvage receipt and that vehicle can run on that salvage receipt.

This bill is primarily a consumer protection Act. When you get

the title, you should be assured you own that vehicle. All seven vehicles that article talked about in an APB from Butte, were inspected by law enforcement officers both highway patrol and by Butte local law enforcement. This is a sophisticated crime, and takes some kind of sophisticated enforcement. Once an APB looked at those VINs, they discovered immediately they were fraudulent VINs. That means you must keep up on this crime. It is no different than a drug crime, you have to have investigator people who know what they are doing because the criminal is very sophisticated.

This bill is basically constructed as simply and economically as possible and the entire cost is covered by fees charged to those using and needing the service. There is no general fund impact from this bill and it has the potential of hundreds of thousands of dollars in savings and protection to the Montana vehicle owners. He urged Committee support of SB 232.

Jon Dilliard, Program Officer for the Motor Vehicle Recycling and Disposal Program in the Department of Health, presented prepared testimony EXHIBIT 5. The Department of Health and Environmental Sciences (DHES) supports the intent of SB 232. They do agree and believe there is a problem with motor vehicle titling fraud and vehicle theft. Something needs to be done to correct that problem and protect the citizens of Montana. They have a concern about the current structure proposed, and the current amendment being proposed to the Montana Motor Vehicle Recycling Act that is contained in Section 5 of this bill. The DOJ's desire to allow their representatives access to motor vehicle wrecking facilities to help prevent the possibility of titling fraud and theft is completely understandable. They have no objections.

The DHES is concerned about the provision that the DOJ inspections and violations noted will be turned over to the DHES for handling. The increased workload caused by the violations discovered in the DOJ inspections and turned over to the Junk Vehicle Program may completely overwhelm the enforcement capabilities of their program. If enforcement is not made, what good is the inspection? Even if the Junk Vehicle Program were to increase their enforcement capabilities to handle the increase in enforcement needs, the additional burden on their program's earmarked funds will hasten the need for a program fee increase or end the program due to inadequate funding.

Additionally, the concept of having one government agency enforcing the findings of another government agency may critically hamper the effectiveness of the enforcement that occurs. Since there will be no control over the DOJ inspectors by the Junk Vehicle Program personnel that are involved in the enforcement, there is a real possibility of miscommunications, misunderstandings, and lengthy delays in any enforcement, and development of hard feelings between two government agencies. As an alternative the DHES suggested a change in the proposal that would further advance record keeping and the enforcement of this

section of this Act. The proposal would allow the DOJ and its representatives the ability to seek civil penalties and other enforcement actions against motor vehicle wrecking facilities as a result of their inspections and the violations discovered. By doing this it would increase enforcement and the ability of this program to help cease motor vehicle titling fraud and to help keep the record keeping for the titlings of Montana vehicles clear.

He passed out an amendment EXHIBIT 6 proposing to give the DOJ the same ability to pursue civil penalties the DHES currently handles the Motor Vehicle Recycling Disposal Act. The DHES understands need for the proposed legislation in SB 232, and is in full agreement with the concept presented. The minor changes suggested would help to improve the law and make it an understandable and workable solution to the problem.

Mark Johnson, President of the Montana-Wyoming Independent Auto Dealers Association, which is a group of independent auto dealers in the State here and in Wyoming, urged support for SB 232 as amended. There is a necessity in Montana for VIN inspection. They would like to see it go further, but this is the first step in solving the problem we are having with auto theft.

Jim Manion, Executive Vice President for the AAA in Montana, also served on the Attorney General's task force that addressed this particular problem which resulted in SB 232, agrees with Dean Roberts entirely that this is consumer protection legislation. It addresses a very real problem and the winners as the result of this legislation will definitely be the consumer and auto owner and potential auto purchaser in Montana. He also urged support of this legislation.

Steve Turkiewicz, Executive Vice President of the Montana Auto Dealers Association, said the title on a Montana motor vehicle is a very valuable document. In the system we have now it is not unlike having a blank check floating out there with the signature of an individual on it. SB 232 is absolutely necessary to rip up that blank check. They urge support for this bill.

Mike Varone, Vice President of Norwest Bank, also served on the Attorney General's task force for consumer fraud. He is past Chairman for the Retail Committee for the Montana Bankers' Association. As the others have said, this is a consumer's bill. They support SB 232 100% and urge passage.

Opponents' Testimony:

Henry E. Lohr, Owner and Operator of Hank's Salvage and Recycling, and Towing, Townsend, MT, opposes SB 232. When these vehicles are determined to be salvage, they could just brand the title, either mark it salvage or wrecked or whatever instead of going through a whole lot of work. It was mentioned that could be done. They do that in Washington, and they still sell the

vehicle. Some are saying it will knock down the value of the vehicle, so let's take care of that.

Another thing the bill does not address is the abandoned vehicles. When they get a vehicle in the yard and an individual can't pay for the towing or it is wrecked and he doesn't want it, what kind of paper work is needed from that individual? How many people carry the title to their vehicle with them? The car may be from out-of-state. He had one car come in from Georgia, the owner said he would send the title, but he has not done so in two years. He has them from Canada with the same problem. This bill does not mention what type of documentation is necessary for this type of problem.

The fiscal note mentions about two different departments doing inspections, isn't one sufficient to do this? He has no problem with two different inspections, but if we satisfy one, are we going to have to satisfy two? These are some of the points to be looked at when executive action is considered. This has been amended quite a bit before. A lot of these points have not been addressed.

Loretta A. Miller, owner of Greenmeadow Auto Salvage with her husband, Helena, handed out her testimony EXHIBIT 7. She is in a strange situation because she is not really opposed to this bill, but is opposed to a lot of things in it. She is also part of the **Montana Auto Dismantlers and Recyclers Association** who did sit on the task force. There are several things in SB 232 that they have concerns with, the major one is with the number of titles this bill will draw in. They are missing a substantial number. Of the 120 cars their salvage car brought in in 1989, 12 of them came from an insurance situation, either through the salvage pool in Missoula or directly from an independent adjuster or an insurance company. Percentages of the vehicles they brought in that had titles were low. She recently bought a 1988 Ford pickup from Georgia that had no insurance through a repossession company. That title would never have gone through this system unless she turned it in in her quarterly report.

Because of the interchange of parts now, five years limit on these vehicles is too short a time. Pickup bodies for years have had a 7 or 8 year interchange. The Chevy pickup runs from 1973 to 1979, Fords are 1973 to 1980s. In 1980 Ford changed. They ran that body style until 1987, so after 5 years they are still getting 1988 pickups. A 1985 title vehicle and the 1988 vehicle will look exactly the same. Without a thorough inspection you would never know the difference. Because of the cost of retooling, manufacturing companies are also doing that now with cars. The Ford LTD runs from 1979 to 1987 with only changes in tail lights and grill. The body parts, doors, fenders, are basically all the same. Five years is not a long enough time to go back.

The inspection structure in the bill also concerned her. When she

first read the bill it looked like there was a two-tier system to do the same thing. One tier inspected out-of-state vehicles coming in just strictly for VIN compatibility with the title and all the public VINs. That inspection was to be done by trained department employees. In Section 2, paragraph 7 it appears the same employees won't be able to inspect the salvage vehicles which are also only being inspected for VIN compatibility. Those inspections should be conducted by the same people, so two different sets of employees would not have to be trained to do the same thing. It would be better to allow one set of employees to be much better trained, since as Detective Sells pointed out, this is a very sophisticated crime and investigators need to be thoroughly trained.

She was today told Paragraph 7 only allows the department to rent a facility where they may have to do a hoist, etc., it did not mean the DOJ officials will be doing the inspecting. That wording may need to be looked at.

Another concern is in Section 3 requiring a salvage receipt be issued for every vehicle that an insurance company totals. She thought it should be a salvage certificate and not a salvage receipt as written in her testimony. They only request 3 or 4 salvage certificates a year. She wanted to bring a salvage certificate that she requested two weeks ago for a 1970 Datsun she sold that somebody is going to work on, but she has not received it as yet. A certificate is on a plain piece of white paper with some black printing on it. It would be very easily altered. The fewer salvage certificates out there, the better off we are. Issuing a salvage certificate for every totalled vehicle is unnecessary and dangerous. She had 134 vehicles brought into the yard last year, this would require an extra 134 salvage certificates at \$5 apiece, that is a lot of vehicles and money. If they are so easily altered, they will be more fun for the thieves.

If the insurance company can sell the salvage vehicle to a salvage buyer on just a salvage certificate, that should be the only required paper work kept in her yard. If she has a properly executed salvage receipt that shows the vehicle has been properly purchased and the insurance company has sent in the paper work, she should not need the salvage certificate until she sells the vehicle.

She cannot meet the requirement in Section 3, paragraph 3, line 15 that a salvage certificate must be issued before any vehicle is disposed of, because she does not get a title with every vehicle. The wording could be better if it was "Prior to the sale of the salvage vehicle..."

Lines 22, 23 and 24 were just about complying with vehicles that do not come in with titles. Even with the changes recommended, there must be a simpler system this state could use to tag a lot more titles and make it very much harder for people to steal

vehicles. She supports any attempt to stop the stolen vehicle program, but is not sure SB 232 is the way to do that.

Questions From Committee Members:

REP. BACHINI wanted response from a proponent on Ms. Miller's testimony. Mr. Funk said some of the things Loretta Miller said he agrees with. 1. We want a system which is similar to what many other states have. This bill says vehicles which need to go through the issuance of the salvage certificate process are those vehicles totalled by an insurer. The Senate added the language regarding those vehicles that are five years old or newer. When the bill started out it simply said vehicles totalled by an insurer, that is about half of the total number of vehicles, maybe much less than that, that fall within the definition of salvage on any given year. The consensus of the committee that met to put this legislation together was that we have to make an effort to start somewhere, and that the five-year old and newer vehicles are the most desirable in terms of theft, coupled with the fact that most of those vehicles or a lot of them are insured because of their existing value, and the fact that they are so new. In a perfect world we might have a bill before you which says something like 'any individual who owns a vehicle which is determined to be a salvage vehicle has an obligation to surrender the motor vehicle title'. That means everybody in the State. He can't deny that would be a better bill from law enforcement viewpoint. The question is, can we impose a requirement like that on every citizen in Montana in one legislative session? That was not the consensus of the committee, they felt that would be going overboard for a new type of system like this.

Concerning the other comments made about the inspection which perhaps could be viewed as a two-tiered inspector issue, that is not at all the intent of the bill. The intent is simply to allow the department to rent a 'facility' which is the language of the bill, when a hoist or something like that is needed to inspect a vehicle. They are going to have to use existing facilities to do some of the inspections.

REP. BACHINI asked about the two agencies being involved in inspections. Mr. Funk said it probably makes the most sense to have either the DHES or the DOJ as the sole entity involved in this situation. Unfortunately, the DHES has been built into it in terms of some of the screening requirements put in at the time the screening was adopted for wrecking facilities, and because DOJ is charged with the whole titling and registration process, the system doesn't make any sense unless we can have the ability to regulate vehicle titles from their birth until their death, and there really isn't any way to do that unless they have some access to the records of the wrecking facilities themselves. Under this proposal what happens with a title after a vehicle is totalled is critical. Prior to the implementation of this process, it really didn't matter if the DOJ had any access to licensed wrecking facilities throughout the state. There is a

statutory requirement now that records be sent to them and they issue salvage receipts for those vehicle. There isn't much reason for their inspectors to be on-site and never review records, but under this new proposal unless there is that ability it can't be effective because of the importance of reviewing the documents that involve the surrender of those titles.

REP. SCOTT asked hypothetically if somebody bought a pickup within the five-year time frame, and he fixes it up, needs a motor which he buys from a wrecking yard, replaces the doors, windshields, a dash because his has been damaged right where the identification plate is located. He has a valid title for the vehicle, but he has no VIN numbers that will match the title. He doesn't have the bill sheet from the manufacturer to prove that the transmission and rearend have the same serial numbers that match the title. What does this person do? Mr. Schoen explained if a person has an existing vehicle with an existing title and is going to do some major changes to it, if the dash is replaced or the door where there may be a VIN and doesn't report it to anyone, he will just keep on driving until he is stopped to have that vehicle checked to see if identification numbers match. If he buys any component parts from a salvage yard, he could get the title or the salvage certificate for the parts bought from the salvage yard. He could call them parts. REP. SCOTT asked if this bill is trying to prevent the sale of these certificates, etc., who would he report this to? Mr. Schoen answered if he buys just a door or a hood, or dashboard, he could foreseeably put those parts on a vehicle and go buy a notice. If he buys a cab or a major component part to strip and repair a vehicle, then he would get a salvage certificate or the salvage receipt for the frame or the cab, and then he would have to have the vehicle inspected to prove he has legal ownership of those parts.

Mr. Roberts explained basically this bill does not deal with that problem directly. That is the same problem we have today. If in fact he has his public VINs and they are Montana titled VINs, nobody is probably going to discover that. It would be discovered if he tried to sell that car in Washington. They would do a VIN inspection just as we will do on vehicles from out-of-state. On this issue all we are trying to do is kill titles at this particular time on five years old or newer vehicles that are sold as totals, basically to insurance companies. That is where the most sophisticated crime occurs in buying those totalled vehicles that have been damaged beyond repair in most cases. What they are buying is that piece of paper. If he buys a new dash for a 1970 van he owns, under present law he has to go to the registrar's bureau and get that titled. He does that through the bills of sale he gets from a wrecking facility. If a kid buys a vehicle from a wrecking facility, and it has a salvage certificate, when he puts that car all back together from different parts he bought from a wrecking facility (the title had been killed), then he is going to have to have what is called a 'rebuilt' inspected again. He must have bills of sale for the component parts of that vehicle because if that isn't required, you get what is called a

'chop shop' operation. If you talk to any reconitioner or basically body shop, those are the people they compete against all the time. Those are people who buy stolen parts, if you don't want it rebuilt with stolen parts, bills of sale must be obtained. That is a common type procedure that is done all over the country with inspection laws.

Ms. Miller responded because she sells those parts to repair the vehicle, right now there is a strong move in their industry to move to the computerized inventory system. She already does have that, so when she sells that young man a dashboard out of a vehicle or a door off a vehicle, her computer automatically prints the VIN of the vehicle that door or dashboard came off of, so the VIN on his dashboard should respond to the VIN on his bill of sale. If she were a good typist and typed the number in correctly, he should have a correct record of the parts he bought. What really concerns her is when Mr. Schoen said they give a salvage certificate for a cab or a body or frame or door. They don't, they give invoices, receipts, bills of sale. If she gives somebody the salvage certificate for a cab, and somebody else wants to buy the frame of her truck, what do they get? So unless they buy a complete vehicle they don't give them a salvage certificate. The young man's problem should be taken care of with the receipts he receives if he tucks them in with his title or something, he will have proof that he owns that truck and he also has parts that he has legal tracings to.

REP. BENEDICT said it seems like there are a lot of questions raised by the opponents. Some of them might have been handled or solvable within the framework of the bill. Was there adequate representation from salvage operators on the task force that prepared the bill? Mr. Funk said they had as a member of the task force the only state association of the Recyclers and Dismantlers. From the time this bill was first written several months before the legislative session began through this hearing, they have had that organization's support. In both the Senate and here two individual members of that statewide association testified in opposition to the bill. He does not know how many members there are in that statewide group, but he would like to have that figure so you could see what the numbers are, because in their hearing, basically they had the support of the state association but there are two individuals who are members of that association who have not been convinced their association stand is agreeable for them.

REP. LARSON asked if he was the person who testified that there wouldn't be any impact on the general fund. Mr. Roberts said he had. That fiscal note is wrong. In the Senate there were some changes made in terms of fees, etc., and a new fiscal note was requested yesterday. It has been given to the Legislative Council and the Committee doesn't have a copy yet. Their concern is that they would not ask for any more money than would be received through the fee process. They lowered the rebuilt fee which is in the Senate version of the bill from \$75 to \$18.50. So everything

across the board costs \$18.50.

REP. LARSON asked when an insurer sells a totalled vehicle, does he convey the title himself? Mr. Roberts said he has three choices under this bill. The insurer who totals a vehicle for whatever reason has to turn in the title to the Department. When the committee met there were a lot of questions about what a totalled vehicle was. That is where they got into the whole issue about what a rebuilt was, etc. That is why it is triggered by the insurer only and is not triggered by other means. There was a long discussion about that. Basically, any car that is of any value, and those are the ones that thieves steal, is going to be insured, either through an insurance company or self insured as is done by companies such as Montana Power Company, Great Falls Gas, MDU, etc. which are also included in this as insurers. The insurance company can total the car. In some cases when you have a totalled car if you are a mechanic the insurance company sells it back to you cheaply after they have already paid you for it. You can keep that car. In that case the insurance company must notify the department they have let you keep that car, but in the bill the department has the right to get that title from you if they so desire. Even though they have the right to get that title, unless they think you may go out and steal another car and do the same kind of crime, they may and let you keep it.

The second way is for the insured himself to at that point sell the car. He wants to dump it quickly, so he takes it to the auction yard or to a wrecking facility, and sells that car to them. He then would have to fill out a receipting process. He sends the department a copy of that receipt, he gives a copy to the wrecking facility. At that time he didn't have the title yet, so he does that. The department then knows who has the car and where the title is. When the wrecking facility receives the title, it would be given to the department.

In the other scenario the insurance company, after they have the title and all the liens are satisfied which is very important to the wrecking facilities since they can't give these cars up in any way until those liens are satisfied, has to make sure that is happening. The insurance company would get the certificate, turn the title in to the department. It is all triggered by the insurance industry. It is their responsibility to tell the department about that vehicle, so they can kill that title.

REP. LARSON asked if it wouldn't be simpler to give the insurance companies a rubber stamp and when they sell the wreck as a total just have them stamp the title and communicate to you they are going to stamp the title? Mr. Roberts said that is about what is happening, but because of a title argument, and because it is so secure, you don't want somebody else putting your name on anything. There isn't a state in the Union that would accept that system. In all 50 states titling documents are sacred including all the new federal requirements concerning odometer statutes, etc. That is basically what we are doing. All that is being said

is that you have to turn that title in. That is exactly what is being done, but we are going through the proper legal procedure to kill that title. Instead of an insurance company stamping that, if it was stamped in the wrong place, and somebody tried to buy that vehicle, another state could say they won't accept it. The title is a very sacred official document in all 50 states.

REP. CROMLEY has had the occasion to be involved when a damaged vehicle has been restored and sold as undamaged. This legislation does not deal with that case. Mr. Funk said unless the original vehicle was totalled within the definition of the bill, this bill really doesn't do much to get at that situation. That is title branding, a concept which many other states use, was discussed in great detail within the attorney general's task force that met on this issue and was ultimately rejected as being one of those additional steps in this type of process that perhaps our state and government wasn't ready for yet. The way essentially that it works in Washington State and other states that brand titles, is they still have the issuance of a salvage certificate. It is not just the situation where they take that existing title and stamp it as saying this car is rebuilt. When the car is totalled they kill the title, they issue a salvage certificate. When the car comes back to life, a new title is issued in the inspection process that exists in our bill. In Washington State at that time when the new title is issued, it has a big black stamp across the face of the title that says 'Rebuilt, Reconstructed, etc.' That is a consumer protection issue. Probably a little bit different angle than this bill in terms of theft, but it is a consumer protection angle. The task force thought that is the type of process that is needed if consumer protection is going to be built into the bill. The task force could not reach agreement amongst the various groups involved on how to implement that type of a title branding scheme. It was a topic which was discussed at great length and many different ideas were put on the table. In any event it is an idea that would get at the problem mentioned by you but was rejected by the committee as being a part of the process at this point in time.

REP. CROMLEY had questions about definitions defining various parts of a car, but he doesn't see where parts of the car are used at all in this section. Mr. Funk explained there was additional language in the bill concerning inspections that would have as originally drafted involved those definitions. They are involved on Page 11, Section 4 of the bill which speaks in general terms about retitling salvage vehicles. On lines 12 and 13 it talks about the source of component parts used to rebuild a vehicle. The definitions themselves are not included in the text of the bill, but the idea behind having the definitions is to define that phrase 'component parts', and to further identify what an inspector may be looking at.

REP. WALLIN asked if a person totalled his car and told the insurance company he couldn't find the title, misplaced it, lost it truly and honestly, and then later on he discovered he had the

title, but he meanwhile had applied for a duplicate title, would there be a way that could fall through the cracks and that car be sold to one of these outfits in an innocent sort of way. Mr. Roberts said it could, but they would have the record from the insurance company which obviously would have the VIN number on the record. There may not be a title number even though it would be on the registration receipt if they had it, but it would have the VIN and their system would allow them to find that title by VIN or by any number of ways they now use. That wouldn't change. It would be pretty difficult for that to fall through the cracks. They also have the ability by law presently to cancel the title that was issued erroneously. It is not likely that a consumer then would get stung by that kind of system.

REP. WALLIN theorized that a person wrecked his car and didn't want to total it. He told the insurance company he would fix it at home. He later changes his mind and sells it to a salvage yard. Is there a big crack there? Mr. Roberts said the insurance company is going to determine whether that car is totalled or not, whether the owner keeps it or not, that is going to be a decision made by the insurance company. If they decide to total that vehicle, they are going to notify the department of that even if the owner keeps the title, so they are going to know and will request that title be turned in to the department. They will issue a salvage certificate during that repair stage. It can run on that salvage certificate, it can be sold on that salvage certificate, but that vehicle cannot be titled again in Montana unless it is inspected as a rebuilt at that time even if he doesn't do anything with it. REP. WALLIN said the insurance company wouldn't know the owner had changed his mind. Mr. Roberts agreed that one would fall through the cracks because the insurance company didn't consider it a total. Somebody has to be the trigger of the system, and they are allowing the insurance industry to trigger that system, and therefore that may fall through the cracks. You may be correct because the insurance company decided it wasn't a total. If it is not a total, then they are not concerned about it. That is true in most states. The question becomes who determines totals. In most states insurance companies determine totals.

REP. BENEDICT understood there is to be another fiscal note. It says in this old one a reduction in the motor vehicle recycling and disposal program state special revenue account may reduce grants to counties. Is that taken care of with the increase in VIN fees? Mr. Roberts answered it is not. Where the reduction comes from is if you ran illegal wrecking facilities out of business. He doesn't find that a real problem if they are reduced. The DHES got into this business during the Ladybird Johnson Act, when the wrecking facilities had to be fenced. Grants to counties would only be reduced if wrecking facilities who weren't complying with the law were shut down.

REP. STEPLER asked why was five years included in this? Ms. Miller testified that vehicles go for five to seven years or

longer. SEN. DOHERTY answered as he remembered the debate on the Senate floor, SEN. AKLESTAD and Mr. Lohr were very instrumental in getting that in. There was some discussion about moving it to three years from a law enforcement perspective. Mr. Funk rejected that. If the Committee wanted to change it to 10 it would be alright with him, but there might be discussion from other people. He thinks it is too short a time, but given political realities of the world, they felt the bill was a lot more important to get at any level than to have it die over fighting about whether it was three years or five years.

Closing by Sponsor:

SEN. DOHERTY thanked Loretta Miller for coming and raising some questions the Committee should be aware of. Under the new system the salvage certificate will be what they refer to as a secure document and alteration would be very difficult to not detect. REP. CROMLEY's question is a good one. The next step for consumer protection could be accomplished in the next session. This legislation only comes into effect once a car is totalled and the trigger that would bring about this whole process is being given to the insurance industry. That is where it ought to be since those people deal with these problems on a daily basis. There will not be two tiers, the same inspectors will be doing the same inspections for different purposes, whether it is a new vehicle coming into the State or a rebuilt.

This is a good bill. It is a necessary first step. It isn't a grandiose scheme by anybody anywhere to build up a large empire of vehicle inspectors. It is a moderate first step at beginning to deal with a very, very serious problem in Montana. He would hope the Committee would concur with this legislation.

HEARING ON SENATE BILL 169

Presentation and Opening Statement by Sponsor:

REP. STEVE DOHERTY, SD 20, Great Falls, explained this bill is the other legislation the Attorney General's task force of various interested individuals came up with. It covers other issues that needed to be dealt with in Montana. SB 169 is a clean up bill. It does a number of things. In Section 1 insurance companies have information in their files they believe would suggest theft or fraud in automobile cases. They would like to tell local law enforcement about that information. They have been unwilling to do so because of their concern about liability and privacy issues in Montana. Section 1 provides them a shield of protection from liability for those instances where theft or fraud might be involved if they shared that information with law enforcement agencies.

Section 2 would allow the department of motor vehicles to assign people identification numbers in certain cases. Sections 3 and 4

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 12, 1991

[illegible]

SENATE BILL 232 AS AMENDED

PREPARED BY: DARYLL E. (BUD) SCHOEN
CHIEF, REGISTRAR'S BUREAU
MOTOR VEHICLE DIVISION
DEPARTMENT OF JUSTICE

Date: March 11, 1991

EXHIBIT 3
DATE March 12, 1991
→ SB 232

Section 1 Beginning on Page 2 this new section defines the elements involved in vehicle salvage.

Section 2 Page 5, Lines 8 and 9 replaces the outmoded term serial number with the term vehicle identification number.

Pages 6, 7 and 8 contain the new subsections which are the basic operating sections for the new inspection program and provide for the inspection of the vehicle identification number on all new vehicles brought into the state, except those sold by a Montana new car dealer, all used vehicles brought into the state and all salvage vehicles which are being retitled. Allows for the department to contract for inspection sites and establishes an inspection fee of \$18.50. There is also a provision for the seizure of any vehicle which has an altered VIN or which appears from the record to have been stolen and the vehicle can be held until legal ownership has been verified.

Section 3 Beginning on Page 8 provides that titles for salvage vehicles less than 5 years old acquired by an insurer be submitted to the department within 15 days of the time the title is obtained and that a salvage certificate will be issued within 5 days by the department to the insurer as an ownership document for the salvage vehicle. This section also provides for the sale of a salvage vehicle within the 15 days mentioned above, and provides for a "salvage receipt" to be issued by the insurer to a salvage purchaser who shall apply for the salvage certificate. (The insurer is still responsible to submit the title to the department.) All titles submitted by an insurer shall be clear of any liens.

This section also provides that if a salvage vehicle is retained by an owner, the owner may be required to obtain a salvage certificate.

This section establishes a \$5 fee for a salvage certificate.

Salvage vehicles owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991 are exempt from this part if the vehicles have been reported to the department as required by 75-10-513(2).

Ex. 3
3/12/91
SB 232

Section 4 Beginning on Page 11 establishes the methods of inspection of salvage vehicles and requires documentation establishing ownership of the vehicle and/or constituent parts. There is also a provision for a 72-hour permit allowing the vehicle to be moved to an inspection facility.

This section also provides for a misdemeanor penalty of a fine not to exceed \$500 for failure to comply with the provisions of the act.

Page 13, Beginning on Line 4 - The original bill as drafted amended 75-10-513 to delete the requirement that the department would issue a salvage receipt to wrecking facilities (Line 16 through 20). That amendment has been deleted. The department will continue to issue salvage receipts to wrecking facilities for salvage vehicles received by them which are exempt from the salvage certificate provisions.

Section 5 Page 15, Lines 17 through 21 provides that a department of justice representative may have access to the records of wrecking facilities.

Section 6 Page 15, Beginning on Line 22 contains codification instructions.

Amendments to Senate Bill No. 232
Third Reading Copy (Blue)
Requested by the Department of Justice

Prepared by Peter Funk
March 11, 1991

Exhibit #
EXHIBIT 4
DATE March 12, 1991
SB 232

1. Title, lines 13 through 14.

Following: "FEE;" on line 13

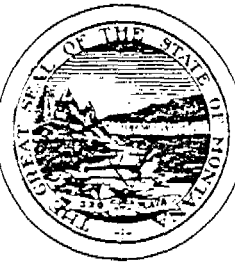
Strike: remainder of line 13 through "VEHICLES;" on line 14

2. Page 12, lines 21 through 24.

Following: "\$500." on line 21

Strike: remainder of line 21 through "certificate." on line 24

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES



STAN STEPHENS, GOVERNOR

FAX #(406) 444-1433

STATE OF MONTANA

OFFICE 836 Front Street
LOCATION: Helena, Montana

MAILING Cogswell Building
ADDRESS: Helena, MT 59620

Solid and Hazardous Waste Bureau
(406) 444-1430

March 12, 1991

5
March 12, 1991
S.B. 232

DHES TESTIMONY ON S.B. 232
CREATE JUSTICE DEPT SALVAGE AND MOTOR VEHICLE
INSPECTION/IDENTIFYING PROGRAM

The Department of Health and Environmental Sciences supports the intent of the legislation proposed by the Department of Justice in S.B. 232. However, we do have concerns about the structure of the change being proposed to the Montana Motor Vehicle Recycling and Disposal Act contained in Section 5 of this Bill.

The Department of Justice's desire to allow their representatives access to motor vehicle wrecking facility records to help prevent the possibility of vehicle titling fraud or theft is completely understandable. However, the Department of Health and Environmental Sciences is concerned about the provision that violations noted during a Department of Justice inspection of a motor vehicle wrecking facility's records will be turned over to the Department of Health and Environmental Sciences for enforcement. It is our belief that the increased workload caused by the violations discovered in Department of Justice inspections and turned over to the junk vehicle program, may completely overwhelm the enforcement capabilities of our program. Even if the junk vehicle program were to increase our enforcement abilities to handle the increase, the additional drain on the program's earmarked funds will hasten the need for program fee increases or result in the discontinuation of the program due to the lack of adequate funds. Additionally, we feel that the concept of having one government agency enforcing the findings of another government agency may critically hamper the effectiveness of any enforcement that occurs. Since there will be no direct control of the Department of Justice inspectors by the Junk Vehicle Program's personnel involved in the enforcement of their findings, there is a real possibility of mis-communications, mis-understandings and lengthy delays in enforcement efforts. Such problems could easily result in conflicts between the two agencies that could further complicate

the situation.

As an alternative the department would like to suggest a change in the proposal that would further advance record keeping compliance at motor vehicle wrecking facilities and thereby reduce the chances of titling fraud. This change would be to provide the Department of Justice with the ability to seek civil penalties for the violations identified by their inspections of motor vehicle wrecking facility records as is currently provided to Department of Health and Environmental Sciences and our inspectors. With both departments having the legal authority to pursue enforcement for detected violations it would help prevent lengthy delays in enforcement, prevent one agency's legal unit from becoming overwhelmed with enforcement requests and would ensure better overall compliance with all of the Act's requirements. Also, by allowing each agency to enforce the violations noted by its own inspectors, it would allow each to have the direct input and assistance of their inspectors in developing an enforcement action.

In closing, the Department of Health and Environmental Sciences understands the current need for the proposed legislation in S.B. 232 and is in full agreement with the concept being presented. However, the department does feel that the minor change we have suggested above would help to improve the law and make it an understandable and workable solution to the problem.

6
DATE March 12, 1991
SB 232

Amendment to H.B. 232

Prepared for the House Business and Economic Development Committee

Section 5, page 15

Line 20 delete: Authorized representatives of the department of justice may report violations of this part to the department.

insert: NEW SECTION. Section 75-10-541, MCA is amended to read:
"75-10-541. Injunction -- action to collect civil penalty. (1) The department, through the attorney general or the county attorney of the county in which a facility is located, may sue to enjoin the operation or maintenance of a motor vehicle wrecking facility or graveyard either permanently or until compliance with this part, the rules of the department, or an order issued pursuant to this part has been demonstrated.

(2) The department, through the attorney general or the county attorney of the county in which a facility is located, may sue in district court to collect a civil penalty as provided in 75-10-542.

(3) The Department of Justice, through the attorney general or the county attorney of the county in which a facility is located, may sue in district court to collect a civil penalty as provided in 75-10-542 for violations to 75-10-512 and 75-10-513 (2)."

Exhibit #7

Joetta H. Miller
Green Meadow Auto
Salvage
458-9204 458-6111

SENATE BILL 232

EXHIBIT 7
DATE March 12, 1991
S 232

SB232 attempts to regulate the flow of titles on vehicles which have been used to get a legitimate Montana title for stolen vehicles. I believe that it falls short of its mark.

I have a major concern about the percentage of titles that will be turned into Deer Lodge as a result of SB232. In 1989, we bought 121 vehicles. Only 12 of those or just 10% came from an insurance company or an insurance salvage auction. In 1990, we acquired 134 cars of which only 20 or 15% came from an insurance company or an auction. Of the 4 vehicles we bought in 1990 that were 5 years and newer, only 1 came from a situation in which the insurance company would have had to send in a title. The other vehicles were from sources that did not involve insurance companies so their titles would never have been sent to Deer Lodge. In the last 2 weeks I bought a 88 Ford Pu through a repossession company on which the man had no insurance. There are a great many cars on the streets that only carry liability insurance so if one of those vehicles is totaled that title does get sent in either. As you can see, there is a substantial number of titles that are being over looked in this bill.

Because of the overlap in the interchange of parts the 5 year limit is too short. Pick up parts and body styles remain the same for 5 to 8 years. In recent years, the cost of retooling a factory has limited the number of changes the car manufacturers make each year also. They now only change body style every 3 to 5 years. So those

people wanting to steal a vehicle simply pick a title to a vehicle a couple years older so it stays outside the reach of SB232 and there is no problem getting that title.

The structure of the inspection system appears to be a 2 tier system which does the same thing on both tiers. Paragraph 6 of Section 8 establishes inspections for vehicles from out of state, which are only inspected for VIN compatibility. This inspection will be done by trained department employees. In paragraph 7 of the same section, it appears that those same employees will not be able to inspect salvage vehicles, which are also only being inspected for VIN compatibility. The training that Department employees are given to authenticate the VIN on an out-of-state vehicle should be the same training that is needed to inspect rebuilt vehicles because many of the stolen vehicles come into Montana after they are built to get the title. The cost of both inspections is the same as established in paragraph 6. If the same personnel perform all of the inspections, the state general fund would retain the money instead of sharing it. Since only one set of inspectors is necessary, fewer inspectors would need to be trained and they could be more thoroughly trained. If my interpretation is correct, paragraph 7 and paragraph 2b of Section 8 could be deleted from the bill.

Another area of concern is Section 3. This section requires that a salvage receipt be issued for every vehicle that an insurance company totals. At present we only request 3 or 4 salvage receipts each year for vehicles that need to be retitled. Issuing a salvage certificate for every totaled vehicle is unnecessary and is dangerous. A salvage certificate is evidence of ownership and easily turned into a title. It is in present form an easily altered document. FE Q22 involves that

an insurance company can sell a vehicle to a salvage buyer on a salvage receipt if they do not have the salvage certificate from the state at the time of the sale. If the salvage receipt is very complete with the salvage buyer identification, the vehicle information, and the title information, the salvage buyer could use that receipt as proof of purchase to request a salvage certificate on only those vehicles that need to be retitled. By its nature as a receipt, it could not be used to retitle a vehicle. Deer Lodge would also receive a salvage receipt on any owner retained salvage so they would be aware of any totals that the owner retains and does not send in the title.

On line 15 of paragraph 3 in Section 3 there is a requirement that before any vehicle is disposed of, there must be a salvage certificate issued. This is a requirement that can not be met with every vehicle because not every vehicle comes to a salvage yard with a title. It is also unnecessary unless the vehicle is resold. "Prior to the sale of the salvage vehicle..." may be better wording than "Prior to the disposing of the salvage vehicle..."

Lines 22, 23, and 24 again require a salvage certificate for every vehicle acquired by a wrecking facility after October 1, 1991. This is another provision that is impossible to comply with because some of the vehicles we acquire do not come with titles. The requirement at present to get a salvage certificate is that Deer Lodge receives a properly executed title prior to or along with the request for a salvage certificate.

Even with these changes, I believe that there are simpler, quicker and more efficient ways to increase the number of titles in this state that can be flagged so it becomes very difficult to retitle a stolen vehicle in the State of Montana.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

SB 232
BILL NO. SB. 169

DATE MARCH 12, 1991 SPONSOR(S) SEN. DOHERTY

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DANILL (BUD) SCHONEN	DOJ - MV DIV.	232 169		✓
Mark Johnson - Helena	MWIRDA -	232 169		✓
Don Roberts	DOJ mv. Div			✓
MARC RACOST	DOJ	232 169		✓
Mike Vande	Montana + MISA	232 169		✓
Marjuline N. Jewell	Am. Ins. Assoc.	232 169		✓
(Steve) Turkiewicz	Mr. Auto Dealers Assn	232 169		✓
Letta F. Miller	MADRA Montana Auto Dismantlers & Recyclers	232	✓	
Don Dillard	MT. Dept. of Health	232		✓ with amendment
Tim MANION	AAA MONTANA	232 169		✓
Gene Phillips	Flatell Assoc and Ins Alliance Am. Ins	232 169		✓
Steve Browning	State Farm Insurance	232 169		✓
Peter Furr	Dept. of Justice	232 169		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Henry E. Lott

Hank's Salvage & Recycling

Bill oppose
232 X

economic development.

EXECUTIVE ACTION ON SB 232

REP. BACHINI announced there are two amendments for SB 232. One requested by the Department of Health and the other requested by Mr. Funk of the Department of Justice. EXHIBIT 12.

Motion: REP. LARSON moved SB 232 BE CONCURRED IN. REP. SCOTT moved SB 232 be amended. EXHIBIT 12.

Mr. Funk explained the amendments. The first amendment on lines 13 and 14 strikes the language to require a salvage certificate for all junk dealers. The folks that are involved with the salvage industry in Montana are very concerned to start this process. This bill would make them do exactly what that sentence says to get a salvage certificate for everything in their inventory, and because the salvage certificates cost \$5.00 each that is a pretty severe financial implication for those folks. It has never been the intent to do that. That is the purpose of amendment #1.

Amendment #2 strikes language on Page 12, lines 21 and 22. That language conflicts with a sentence on Page 9. "Prior to disposing of the salvage vehicle, the salvage vehicle purchaser shall flag salvage certificate". The sentence to be stricken says you can't repossess one of these vehicles without getting a salvage certificate. That isn't bad. It has the same meaning that the sentence in the title does. You cannot even possess one of these vehicles without a salvage certificate. On Page 9 it explains you can possess one of these vehicles, you just can't sell it without getting a salvage certificate. This clarifies again things for the salvage vehicle. As long as it remains in the salvage dealer's inventory, they can't dispose of them without a salvage certificate, but rather than having to pay the \$5 fee for a salvage certificate on each vehicle in their yards, they can get a certificate when they sell the vehicle.

Vote: The first amendment passed unanimously. EXHIBIT 12.

Motion: REP. SCOTT moved SB 232 be amended. EXHIBIT 13.

Mr. Funk advised that at the present time only the Department of Health has legal authority to take some kind of an action against a wreckage facility that is in violation of the law. Because this whole scheme does involve further regulation of that industry, it is the feeling of the Department of Health that if enforcement activity is going to be increased in this area, since they are already understaffed now, and they are frankly not interested in enhancing the enforcement side, this is the Justice Department initiative. It does not come out of Health and they are taking the position that maybe you ought to have some responsibility for enforcement. As of now, only Health has that responsibility. This paragraph in the amendment simply says that

the Justice Department as an agency, as well as they, can take enforcement action if they discover violations in a particular wrecking facility.

REP. STELLA JEAN HANSEN asked if this applies to private wrecking yards? Mr. Funk said yes.

REP. LARSON spoke against this amendment.

Mr. Funk said on page 15 of the bill as drafted, there is new language in lines 17 through 21. It reflects the Justice Department's ideas as to how these two programs would interact. They simply wanted the authority to go in and conduct inspections and report that information to the Department of Health who would take the enforcement action. Because they do not really want to be alone on the enforcement side, they would like the Justice Department to have authority as well as they and so those are kind of the two choices.

REP. STELLA JEAN HANSEN asked if this applies solely to private wrecking yards as it coordinates with the junk vehicle law. Mr. Funk said No.

REP. LARSON asked if the yards will have to put with both agencies. Mr. Funk said yes. REP. LARSON will speak against this particular amendment because it can be odious. Mr. Funk explained on Page 5 when the bill was drafted there was new language inserted in lines 17-21 that reflects their idea of how these two bills would interact. They wanted authority to go in and inspect and then the Department of Health would go in and do the enforcing, but they didn't want to be alone on the enforcement side. They want the Justice Department to be in with them. REP. BACHINI asked if the Justice Department is taking the original step. Mr. Funk said yes.

REP. TUNBY asked why is the Department of Health involved at all. The Justice Department should be involved. Mr. Funk explained it came about before his involvement with the Justice Department. It really had to do with screening these yards from public view which was considered to be a regulatory function closer to what the Department of Health did. It is very strange. They regulate these yards in the viewer impact, but what goes on in these yards is fairly critical. These people are involved in the finished part of a vehicle's life. He doesn't believe it really involves beyond the screening type of things.

REP. KILPATRICK asked if with this amendment, either department could act independently. Mr. Funk answered yes, that is true. They can enforce a violation if they see it? Without the amendment the Justice Department can only communicate a violation to the Department of Health.

REP. STELLA JEAN HANSEN believes this is a good amendment because the Department of Health has had other responsibilities similar

to this, such as condemnation for water violations. She would see this as being able to come to your department. Mr. Funk said if the amendment were adopted that would be correct.

REP. SONNY HANSON said they have had authority to do these kinds of things, but have delegated that to local governments because they just never got it done.

REP. LARSON suggested getting the Department of Commerce out and the Justice Department in.

Vote: REP. SCOTT'S motion to amend CARRIED (EXHIBIT 13) with REPS. LARSON and HANSON voting No.

Mr. Verdon explained the amendment being considered occurs on page 15, line 8, following the word "owner" insert the words "or person selling the vehicle and or release of ownership in the vehicle".

Henry Lohr, wrecking yard owner, showed a copy of what his yard uses as a release, and also a bill of sale. At the present time he uses both of them. He doesn't want to take any chances. He asked what they are supposed to use and to do. What kind of paperwork is required? The law was being misinterpreted. It should be clear to everyone with the amendment on Page 15, line 25, and Page 16, lines 1-4, wholesale demonstrator plates will be clearly marked as are dealer demonstrator plates for law enforcement purposes.

Mr. Verdon asked what he meant by those words? Mr. Lohr said he is particularly interested in release language. Mr. Verdon asked if the language "or person selling the vehicle" goes in after "owner". Mr. Lohr said after "vehicle". Mr. Verdon asked if he intended to add an "or" or an "and". Mr. Lohr wanted an "or". Mr. Funk said they had no objection to the amendment. It makes correct sense to simply say "or". Persons selling the vehicle "or" interest in the motor vehicle.

REP. CROMLEY asked if this would basically release ownership of the vehicle. Mr. Verdon said "or person selling the vehicle or ownership of the motor vehicle". REP. CROMLEY said this would give them either a certificate of ownership or sheriff's certificate of sale or notarized bill of sale for release of a motor vehicle. Mr. Verdon said you have to have either a certificate of ownership or bill of sale.

Motion/Vote: REP. STELLA JEAN HANSEN moved the "Lohr" amendment be adopted. Motion CARRIED unanimously.

Vote: Motion SB 232 BE CONCURRED IN as amended CARRIED unanimously.

Mr. Funk asked for clarification of the amendment being discussed.

Mr. Lohr said now wholesale demonstrator plates will be clearly marked as dealer demonstrator plates for law enforcement purposes.

REP. WALLIN said the fiscal note indicates there is something about 30 denials of licenses for wrecking yards. What would that percent be for Montana? Mr. Lohr said some of their concerns were the denials. Some of that language was stricken because it was incorrect. There are 230 licensed yards in Montana and apparently seven of them were not getting their reports in on time. With this action they will be getting their reports in on time. The titles have to be sent with the reports and they were not doing that. They were going to deny 30 other yards unless this is done. Anybody with an inventory prior to this time would be exempt. Since then records will have to be kept updated.

REP. SONNY HANSON asked if in relation to the three amendments that occurred, in looking at the fiscal note as it was originally introduced, are you adding 40 FTEs to the Department of Justice? Has that changed at all? Dean Roberts said they are still anticipating 36 from the new fiscal note and not 40, because of the five year provision and also because they changed the fee structure. There are a little less than 40.

REP. STEPPLER asked what is the negative impact on the general fund? In five years there would be less people?

Dean Roberts said the original fiscal note was for \$189,000. There will be no impact on the general fund. It will be paid for by the fees generated. They are only talking about 3200-3300 rebuilt vehicles in Montana per year. For the impact in five years it would probably be down to 2000-2500.

Motion/Vote: Motion SB 232 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON SB 53

Motion: REP. PAVLOVICH moved SB 53 BE CONCURRED IN.

Motion: REP. PAVLOVICH moved SB 53 BE amended. EXHIBIT 14.

Discussion:

REP. PAVLOVICH said the thrust of the amendment starts at the bottom of Page 2. Stricken language has to be left in and subsection (b) added. Shake-A-Day game has been going on in the state of Montana for many years. This amendment comes from the Department.

REP. LARSON asked if the 50 cents is left in and if the size of the board can be stipulated. REP. PAVLOVICH said the 50 cents is left in.

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 13, 1991

[illegible]

1-80
3-14-91
JDR

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 232 (third reading copy - blue) be concurred in as amended .

Signed: _____
Bob Bachini, Chairman

Carried by: Rep. Pavlovich

And, that such amendments read:

1. Title, lines 13 and 14.

Strike: "TO REQUIRE THE ISSUANCE OF A SALVAGE CERTIFICATE FOR ALL JUNK VEHICLES;"

2. Title, lines 16 and 17.

Following: second "TO"

Strike: remainder of line 16 and line 17 in its entirety

Insert: "SUE TO COLLECT CIVIL PENALTIES FOR CERTAIN"

3. Title, line 18.

Strike: "OF TITLE 75, CHAPTER 10, PART 5, MCA"

4. Title, line 19.

Strike: "AND"

Insert: ", "

5. Title, line 20.

Following: "75-10-512,"

Insert: "AND 75-10-541,"

6. Page 12, lines 21 through 24.

Following: "\$500." on line 21

Strike: remainder of line 21 through "certificate." on line 24

7. Page 15, line 8.

Following: "owner"

Insert: "or person selling the vehicle, release of ownership or interest in the motor vehicle"

8. Page 15, lines 20 and 21.

Strike: lines 20 and 21 in their entirety

Insert: "Section 6. Section 75-10-541, MCA, is amended to read:

"75-10-541. Injunction -- action to collect civil penalty -
- authority of department of justice. (1) The department, through
the attorney general or the county attorney of the county in
which a facility is located, may sue to enjoin the operation or
maintenance of a motor vehicle wrecking facility or graveyard
either permanently or until compliance with this part, the rules
of the department, or an order issued pursuant to this part has
been demonstrated.

(2) The department, through the attorney general or the
county attorney of the county in which a motor vehicle wrecking
facility or graveyard is located, may sue in district court to
collect a civil penalty as provided in 75-10-542.

(3) The department of justice, through the attorney general
or the county attorney of the county in which a facility is
located, may sue in district court to collect a civil penalty as
provided in 75-10-542 for violations of 75-10-512 or 75-10-
513(2)."

regulation take effect? **Ms. Ellery** said it was passed out Nov., 1990 and became effective upon enactment. What they are doing is going out for contract for someone to do that independent disability determination for them. **REP. COBB** said if this bill dies that can go on anyway.

REP. CODY asked if the bill has a definition of "acute chronic long term"? **Ms. Ellery** said yes. **REP. CODY** referred to **Ms. Ellery's** statement that she would refer the individual who she feels is eligible to apply for SSI. What if they are not capable of filling out an application and applying for the SSI? **Ms. Ellery** said we will assist those applying for SSI and will require that they do so we can get those federal dollars. **REP. CODY** referred to the statement that this does not effect children yet her synopsis says it limits state medical benefits to persons who are less than 18 years old. **Ms. Ellery** said basically what they have said is that the provisions of this bill will not apply to individuals who are under age 18.

REP. KADAS said you are getting savings from two places. One, the health care person is going to make a judgement whether that person needs care or not and the other is you will be shifting people to SSI. Who decides who the health care person is and how does that person get into this circuit? **Ms. Ellery** said what they plan to do is go out on an RSP. There are a lot of managed care contractors out there because it is a very popular way to better manage medical programs.

REP. BARDANOUVE said in an emergency room for minor procedure the charge can be \$50 for one minute. Does SRS pay that same charge? **Ms. Ellery** said they have payment schedules with the hospitals and have a set fee schedule they pay. Medicaid is always less than what the charges are to the private pay person.

Closing by Sponsor: **SEN. AKLESTAD** thanked the committee for the good hearing and said what this bill will do is give a new management tool to the Department. There are two primary reasons why they are going to save money. They will bring in SSI and there will be savings because of the case management loads. They will help those who really need help.

HEARING ON SB 232

Create Justice Dept. Salvage and Motor Vehicle
Inspection and Identifying Program

Presentation and Opening Statement by Sponsor:

SEN. STEVE DOHERTY, SD 20, Great Falls, said this bill is an outgrowth of an effort by the Attorney General, Montana Sheriff's and Peace Officers Assn., Montana Automobile Dealers, Montana Bankers Assn., Insurance Companies and various local County Attorneys trying to deal with a problem of theft in Montana. A way to solve the problem is to provide for vehicle inspection, of

vehicles that come into the state from out of state and for salvage vehicles. With that vehicle inspection they are going to charge fees, \$18.50 for new vehicles coming in, \$18.50 for salvage vehicles, \$5 for salvage certificates for cars that are wrecked and then rebuilt. They also brought in a user fee to provide the funds to hire the inspectors the Department of Justice needs to hire in order to make this whole system work. The vehicle identification number are hidden in cars and car thieves have become adept at changing those vehicle identification numbers. In order to stop that problem the Department of Justice feels it needs highly trained individuals to inspect the bin numbers to make sure they are transferred or transferable and in doing that they will be able to kill the titles on cars that are wrecked.

Proponents' Testimony: Steve Turkiewicz, Executive Vice President, Montana Automobile Dealers Assoc., said a member of that organization was able to participate in the development of these recommendations the last year and are aware of the problem which faces all consumers of autos and can be solved with this bill.

Questions From Committee Members: REP. CODY said on the synopsis it says there is an additional 24 FTE in FY 92 and 40.5 FTE in FY 93. Does that mean a total over the biennium of 40.5 or a total of 64.5? Mr. Turkiewicz said it would be 40.5 as the maximum number of FTE. The first year is a partial year of operation. REP. CODY asked why do they need so many people to do this? Mr. Turkiewicz said the key is to cover the state adequately in terms of providing the inspections. REP. CODY asked if there is not some system that could be put into place to utilize the local government entities on this or do you feel the department would have to handle it totally on its own. Dean Roberts, Administrator, Motor Vehicle Division, said one of the problems they have now is they do ask for inspection of some vehicles and it is done by local law enforcement. They are not capable of doing it, they don't want to do it. It is very difficult for them because the crime is so sophisticated. They are using local law enforcement officers in this bill. This is only the management part of it. REP. GRADY asked how much impact will this create on the salvage or junk people? SEN. DOHERTY said it will not create any impact. They adopted amendments to cover this in the House Committee.

REP. KIMBERLEY said their summary also indicates the provisions of this bill are in conflict with HB 782. REP. BARDANOUVE said Mr. South has an amendment for that conflict.

REP. KADAS asked for an explanation, the 68,000 to 70,000 vehicles. Some of them are new and he does not understand why a new vehicle needs a bin inspection. Mr. Roberts said those are new vehicles belonging to other states. In fact, any new vehicle that comes into the state of Montana from the manufacturer is not inspected. REP. KADAS asked how many new vehicles are sold in

~~the~~ state of Montana in a year? Mr. Turkiewicz said there are approximately 30,000 new cars and trucks registered in Montana. ~~the~~. KADAS asked how many new vehicles that aren't titled in Montana would fall under this and are most used vehicles? Mr. Turkiewicz said there has been somewhat of a change in flow of cars in Montana and elsewhere. They are called factory cars or programmed cars. A lot of cars that are manufactured go to rental car companies for four months and then go to the billings auto auction. They do up to 400 cars per week.

~~REP.~~ BARDANOUVE said Montana has become a dumping ground for very questionable cars. SEN. DOHERTY agreed. When he first got involved with this a Great Falls dealer was talking about this. It is becoming a real problem with people from out of state because we don't do inspections and don't kill title. REP. BARDANOUVE asked if we kill the title will we continue to kill titles on this bill or will that situation remain the same as it is now? Mr. Roberts said basically the Department will get the title back on any salvaged vehicle determined to be salvaged by the insurance adjuster.

EXHIBITS 9, 10, 11 and 12 were distributed (amendments voted on during Executive Action later this day).

Closing by Sponsor: SEN. DOHERTY said he thinks it is a very serious problem and they have attempted to come up with aid for it without hitting the general fund and knows this Committee will look favorably on it.

HEARING ON SB 421

Stay Well Incentive Program

Presentation and Opening Statement by Sponsor:

SEN. BIANCHI, SD 39, Gallatin County, said currently, state employees earn one day per month of sick leave. They can accumulate that to any level they want and then on retirement, quitting or being fired, they can collect 25% in pay of the sick leave they have accumulated. The problem with this is that it gives employees an opportunity to work the system. If an employee wants to get paid 100% of sick leave, then each month an individual will take a day off to claim sick leave and get paid for that. On the other side of the coin, if an employee is dedicated and works all the time other than actually being sick, by retirement time, will accumulate a large amount of sick leave. The employee will not get paid for all of that, just 25%. What this bill is about is a fairness issue and it says if the employee doesn't quit or get fired and at retirement time could opt to take that accumulated sick leave and apply it toward health insurance and be paid on a monthly basis. The fiscal note is about \$900,000 general fund. If you look at monthly payments versus a lump sum in the next biennium about \$500,000 can be saved but according to the accountants it has to be taken out up

EXECUTIVE ACTION ON SENATE BILL 229

Motion/Vote: REP. QUILICI moved SB 229 be concurred in. Second Rep. Bradley. Motion carried with Reps. Thoft, Zook, Swysgood, Bardanouve, Grinde, Peterson and Kadas voting no.

EXECUTIVE ACTION ON SENATE BILL 232

Motion/Vote: REP. PETERSON moved SB 232 be amended (EXHIBIT 10). Second Rep. Nisbet. Motion carried unanimously.

Motion: REP. KADAS moved SB 232 be amended (EXHIBIT 9). Second Rep. Bradley.

Discussion: Carroll South, LFA, said this is another conflict issue raised by the Legislative Council and the amendment was prepared by the Chief Legal Counsel.

Vote: Motion carried unanimously.

Motion: REP. PETERSON moved SB 232 be concurred in as amended. Second Rep. Nisbet.

Discussion: REP. SWYSGOOD asked what is the funding source? REP. BARDANOUE said there will be fees. REP. PETERSON said there will be an \$18.50 fee on out-of-state inspections coming in, also on salvage inspections. There will be a lesser fee on a salvage certificate if the car is being totalled. REP. SWYSGOOD asked if this fee that is on the amendment will cover the personnel being hired. REP. BARDANOUE said you will have to limit the people to the revenue that is coming in.

REP. THOFT said he does not understand out-of-state inspections. Mick Robinson said that refers to the vehicle that is coming into Montana from out of state when they are applying for a Montana title. That is the situation where they have had a number of stolen vehicles that end up coming into the state. There is presently no inspection.

REP. SWYSGOOD said on the amendment that is in the bill now, in the expenditure side they are putting driver's exam, supervisors, inspectors and clerks. What does that have to do with bin inspections? Mr. Robinson said those are basically the classification titles that these individuals would flow into in the state classification system.

Motion: REP. BRADLEY moved SB 232 be amended to leave the FTEs at 24 and not 40 and that the budget be reflected accordingly. Second Rep. Kadas.

Discussion: REP. BARDANOUE asked can they do the job? REP. BRADLEY said they could probably do about as much of the job as the social workers they totally devastated in the House that are being called upon to take care of neglected and abused children.

Mr. Robinson said what happened with that particular type of staffing is that the smaller communities end up receiving very limited service. What they propose to do in the smaller communities is hire half-time individuals that will mesh with the driver's exam individuals.

REP. CODY spoke against the amendment because the state has a tremendous problem. What she foresees is, if you take the majority of the FTEs and put them in the bigger communities that will have the inspections because of the numbers you will end up driving this out in the country.

REP. KADAS spoke in favor of the motion.

REP. QUILICI asked if this amendment passes, will the budget reflect accordingly? REP. BRADLEY said she would include that in the motion.

Vote: REP. BRADLEY'S motion carried. Roll call vote # 3.

Vote: REP. PETERSON'S motion failed, with Reps. Peck, Thoft, Swysgood, Connelly, Cody, Grinde, Cobb, Zook and Grady voting no.

Motion/Vote: REP. PECK moved to reconsider their action. Second Rep. Quilici. Motion carried with Reps. Thoft, Swysgood, Connelly, Grady, Cody, Zook, Cobb and Grinde voting no.

Motion/Vote: REP. QUILICI moved SB 232 be concurred in as amended. Second Rep. Peck. Motion carried with Reps. Thoft, Swysgood, Connelly, Grady, Cody, Zook, Cobb and Grinde voting no.

EXECUTIVE ACTION ON SENATE BILL 421

Motion/Vote: REP. THOFT moved SB 421 be TABLED. Second Rep. Swysgood. Motion carried with Reps. Connelly, Quilici, Nisbet and Kimberley voting no. Rep. Grady absent.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 6

Motion/Vote: REP. THOFT moved SJR 6 be TABLED. Second Rep. Swysgood. Motion carried with Reps. Quilici, Cobb and Nisbet voting no.

EXECUTIVE ACTION ON SENATE BILL 82

Motion/Vote: REP. PECK moved SB 82 be amended by reducing all increases by 50%. Second Rep. Nisbet. Motion carried unanimously.

Motion/Vote: REP. PECK moved SB 82 be concurred in as amended. Motion carried with Reps. Thoft, Swysgood, Grady, Zook, Peterson, Grinde and Cobb voting no.

HOUSE STANDING COMMITTEE REPORT

4:25
4-4-9
JOB
April 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 232 (third reading copy -- blue) be concurred in as amended.

Signed: Francis Bardanoue
Francis Bardanoue, Chairman

CARRIED BY: REP. PETERSON

And, that such amendments read:

1. Title, line 19.

Following: ";

Insert: "TO PROVIDE AN APPROPRIATION;"

2. Page 6, line 17.

Strike: "\$18.50"

Insert: "\$11.50"

3. Page 6, line 20.

Strike: "\$18.50"

Insert: "\$11.50"

4. Page 16, line 18.

Following: "75-10-513(2)"

Insert: "discovered during department of justice inspections"

5. Page 16.

Following: line 18

Insert: "NEW SECTION." Section 7. Appropriation. There is appropriated to the motor vehicle division in the department of justice from the general fund \$417,300 in fiscal year 1992 and \$769,140 in fiscal year 1993 to fund the creation and operation of the statewide vehicle identification number inspection program."

Renumber: subsequent section

Passed

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

ROLL CALL VOTE

TIME

12:08

DATE

BILL NO.

232

NUMBER

3

MOTION:

*Amended by Cutting from
4 to 2 + ?*

NAME	AYE	NO	ABSENT
REP. RAY PECK, VICE-CHAIRMAN	✓		
REP. DOROTHY BRADLEY	✓		
REP. JOHN COBB	✓		
REP. DOROTHY CODY		✓	
REP. MARY ELLEN CONNELLY	✓		
REP. ED GRADY			✓
REP. LARRY GRINDE	✓		
REP. JOHN JOHNSON	✓		
REP. MIKE KADAS	✓		
REP. BERV KIMBERLEY	✓		
REP. WM. "RED" MENAHAN	✓		
REP. JERRY NISBET		✓	
REP. MARY LOU PETERSON		✓	
REP. JOE QUILICI	✓		
REP. CHUCK SWYSGOOD	✓		
REP. BOB THOFT	✓		
REP. TOM ZOOK	✓		
REP. FRANCIS BARDANOUVE, CHAIRMAN		✓	
TOTAL	13	4	